IN THE CIRCUIT COURT OF THE STATE OF OREGON

FOR THE COUNTY OF MULTNOMAH

JULIE CHRISTOFFERSON TITCHBOURNE,)
)
Plaintiff,)
)
vs.) No. A7704-05184
)
CHURCH OF SCIENTOLOGY, MISSION)
OF DAVIS, a non-profit California)
corporation, doing business in)
Oregon; CHURCH OF SCIENTOLOGY)
OF CALIFORNIA, a California)
corporation, doing business in)
Oregon; and L. RON HUBBARD,)
)
Defendants.)

EXCERPT OF PROCEEDINGS

Volume IX
Pages 4640 to 4835
Testimony of Gerald D. Armstrong

April 11, 1985

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Portland, Oregon

(Court reconvened Thursday, April 11, 1985, beginning at the hour of 9:45 a.m.)

THE COURT: Good morning.

Okay, Mr. Armstrong.

(Witness resumed the witness stand.)

The last exhibit we were dealing with was 883. It was not received.

Bring the jury in, unless you have my matters to discuss about this exhibit right now.

MR. COOLEY: No, I don't. I have to continue laying the ground work for it.

THE COURT: Counsel?

MR. McMURRY: We don't have the questions. It's hearsay, Your Honor.

MR. COOLEY: Hearsay?

MR. WADE: Your Honor, Mr. Armstrong has not been able to determine what the question was. I don't think there is --

THE COURT: Part of it has questions and answers. There is one part that has an answer without a question.

MR. WADE: Yes. We have no objection to Mr. Armstrong reading the other parts.

MR. COOLEY: It's in his handwriting. I

don't see why a question is necessary.

THE COURT: Well, I would assume the question is necessary so he knows what he is answering to and he can answer your question.

MR. COOLEY: He wrote it, he can explain it as best he can, it seems to me.

MR. WADE: The problem is, Your Honor, he can't explain it because there is no question. With respect to that part, we object to it. The question was on a document prepared by the defendants and it has not been produced.

THE COURT: To the extent there are questions and answers there, he can answer. If we come up with a question, then he can answer the part that he's written the amswer to.

MR. COOLEY: Your Honor, I don't see why I can't have him read the matters that he wrote and give him an opportunity to explain it. That seems to me is appropriate examination.

THE COURT: I thought I just explained that. Because Counsel has told me he doesn't remember the question he was answering.

MR. COOLEY: That's his testimony. He's written it there, so what if he doesn't remember it. I don't understand why that should be a relevant consideration at all.

THE COURT: I understand why and I don't see --

MR. COOLEY: I understand your ruling. I respectfully submit it's a unreasonable restriction on cross-examination of a document prepared by this witness in his hand in connection with meetings that he was having with so-called Loyalists. The fact he can't remember the specific question, I think if Your Honor will read that and see what he has written there as an answer, I think you will see that it's self-explanatory.

THE COURT: Maybe I should ask Mr. Armstrong.

Mr. Armstrong, what you have written there, you know what -- the question you are responding to when you wrote an answer?

THE WITNESS: I know roughly what it was about, but I don't know the specific questions. There is some here that I have noted. I can explain the whole thing, because it had to do with the complaint, and this group gave me a number of questions which arose out of the complaint, and this is my response to that. You know, the whole thing together probably -- I don't know. Some of the questions are noted and some I don't know. I could not state, for example, what the first two or I guess three were. Whatever they requested would be a great deal of help.

MR. COOLEY: I don't have it.

THE COURT: Well it seems we have a problem.

MR. COOLEY: It seems to me that the general knowledge that it was with respect to the complaint is sufficient to have him testify as to what he put down there.

MR. WADE: I will very shortly answer that. It's a problem we have had in the past and we will probably have in the future, that is evidently certain documents are taken out of the files and produced and then used at trial and documents concerning those documents, and this would be documents generated by the Church, are not produced. And it's just extremely unfair for a witness to be presented with part of the documentation and not the entire documentation. I mean, certainly the Church would have the questions that were given to Mr. Armstrong. They retain copies of his answers. And to think they would not retain copies of his questions or if they destroyed those, they destroyed those for a purpose, Your Honor.

MR. COOLEY: You know, I'm getting a little tired of that kind of accusation, Your Honor. What I tell you, it isn't there. It isn't there. Mr. Wade persists in making these accusations and it is ridiculous. These questions were given to this man. Either orally or in writing. He prepared answers. I don't have the questions any more than I have that shreded document that's showed on here, and I haven't seen it anywhere in the files.

THE COURT: To the extent that he can knowledgeably state that he has written this in answer to a question and can identify what the question was, fine. If he cannot, then he cannot. It's that simple.

Do you understand that, Mr. Armstrong?

THE WITNESS: I think so, Your Honor.

THE COURT: We will have to do it on a question-by-question basis.

MR. COOLEY: Thank you.

THE COURT: Okay. Bring the jury in.

MR. COOLEY: Is the document admitted into evidence, Your Honor?

THE COURT: Well, to the extent that it's going to be answered, we might have to delete portions of it, Mr. Cooley, is what I'm concerned about now. You say admitted into evidence in entirety, the answer at this time is no. Part of it may well be.

(Following proceedings held in the presence of the jury.)

BY MR. COOLEY: (Continuing)

Q. Exhibit 883, do you have that in front of you, Mr. Armstrong?

A. Yes.

Q. That document was prepared by you in your own handwriting for transmission to the so-called Loyalists, was it not?

A. It was an answer which I gave, as best I could, to questions which they put to me. And, yes.

Q. Now, do you remember when you prepared that document?

A. Well, the date on it is November 8, 1984; it appears to be in my handwriting.

Q. You had met with Joey in Griffith park on November 7?

A. That's your date from the tapes. I do not recall the date.

Q. Do you remember the day after you wrote that document meeting with Joey again on the 9th in Griffith park?

A. Again, I do not have the chronology. I don't have the reports. I have to accept your dates.

Q. In any event, that document, dated the 8th, you were writing out your answers to questions. What's the first question?

A. I do not have that question. I don't have the next question. The questions are not here.

Q. Some of the them you wrote down questions; isn't that correct, and then wrote answers?

A. Yes.

Q. All right. Can you look at the first item which you purport to furnish an answer and tell me if you have any memory of the subject matter you were being interrogated on?

A. The first question?

Q. Yes, sir.

A. It appears to be -- they asked me when the lawsuit should be filed. That is the lawsuit which they intended to bring in order to exert their claim as being the organization and to have a receiver appointed.

Q. Now, these questions came after you had furnished a draft of a complaint prepared by Michael Flynn; is that correct?

A. There is two drafts and I believe they had them both by this date, but I cannot be certain.

Q. They had gone over them and Joey was telling you they had certain questions with respect to the complaint; right?

A. That's correct.

Q. The very first question is when should it be filed; right?

A. Well, I don't know if that was it or when is the ideal timing? In any case it had to do with when.

Q. What was your answer to that question?

A. I stated that timing is ideal. A day the or a very few days following any indictments.

Q. And at that time, you had been telling Joey that you expected an indictment momentarily in Toronto; isn't that right?

A. Well, both ways back and forth. Joey was relating to me the organization's concern that they figured indictments were coming down. He told me they had a plant, that the organization had a plant in the office of the Ontario Provincial Police and the organization was very concerned about imminent indictments. So we had a flow of information going in both directions.

Q. You told him about the role that you were playing up there in Toronto, didn't you, the information you were furnishing?

A. Well, the role I was playing in Toronto --

Q. The question is did you tell him about any role you were playing in Toronto?

A. Well, I was not playing a role in Toronto and I can explain that if you let me.

Q. First of all, let me ask you this. Did you go Toronto and work with anybody up there in connection with that matter?

A. No.

Q. Did you furnish any affidavits or written statements to anyone up there?

A. I can explain that.

Q. First, answer if you will answer it, then explain it.

MR. WADE: Your Honor, can he be allowed to explain the question.

MR. COOLEY: The question is, did he furnish any affidavits.

THE COURT: Let's not get off to a bad start this morning. Number one, let me hear the question before I hear an objection. Then make your objection and the basis for your objection, then I will make a ruling. Okay?

MR. COOLEY: Yes, Your Honor.

THE COURT: Before I hear argument on it.

MR. COOLEY: The quizzes question is did he furnish any affidavits or written material to the authorities in Toronto.

THE COURT: That's the question.

THE WITNESS: Okay. Your Honor, and just so my answer in the negative, I don't want that to be misinterpreted, so I want to be able to give what I know ended up with the Ontario Provincial Police.

If I could do that.

THE COURT: Mr. Armstrong, you are going to be able to explain your answer. The question is, did you give one or not?

THE WITNESS: They used one of mine. I didn't give it to them.

THE COURT: Okay. That's an answer.

BY MR. COOLEY: (Continuing)

Q. When you say "one of mine", you mean an affidavit?

A. That's correct.

Q. Which affidavit did they use?

A. I did not see it, but my understanding is that they used an affidavit authored by me which had to do with Hubbard's control of the organization, and the fact that money was funneled to Hubbard via a Liberian corporation called Religious Research Foundation. Now, I don't know this for a fact, but that's my understanding of what happened.

Q. Where did you get that understanding?

A. I don't know if it was from Michael Flynn or if I learned about it from authorities in Florida. I'm just -- I'm not sure where exactly it came from. There was a press statement, I believe, which contained this information. In any case, it was an affidavit that was filed in -- I believe initially in Florida.

Q. In what case?

A. Well, the cases I know of down there -- are Burden and McLean, and those are, I understand, the ones. Again, I cannot be certain at this time.

Q. Flynn is the lawyer for those plaintiffs; correct?

A. He may be associated in in some way. They were represented by attorneys in Florida, for sure. A man by the the name of Walt Logan, I understand is the main attorney on the case.

Q. Did you give your affidavit to Logan or to Flynn?

A. I believe it went initially to Flynn.

Q. Now, what is the second question that you answered on that list?

A. I can't tell you.

Q. There is no question appearing?

A. No.

Q. Can you tell from the answer what they were dealing with out of the complaint?

A. I think that the whole rest of it dealt with an issue, and it's a legal issue and I provided what I could, always with the proviso of I'm not an attorney, I'm not giving legal advice, here's my interpretation since you guys apparently don't have an attorney and you are depending upon my small expertise. And it had to do with some allegations of criminal activity by the organization. I mentioned one of those and that was the possible entrapment of a judge, Judge

Krentzman in Florida, and the criminal setup of Michael Flynn in Boston, in attempting to frame him in an attempt to cash a check on L. Ron Hubbard's account. Those are the two allegations of specific criminal activity which were mentioned in the complaint.

Q. It was on that --

A. Both of those things were acknowledged by the -- by Joey, of the Loyalists. They wanted to know -- their question of me, and that's what most of this deals with is, can we be certain that, first of all, a judge will -- a court will free the account? Because what they sought was to curtail the pouring out of money to private investigators and attorneys for illegal activities. Or if they could not come up with the proof of these events, these instances, what then? And the rest of it is my attempt to answer. My understanding -- and it would be the same today -- is that regardless of criminal activity, a complaint can be filed. You can simply say, "We are the organization." And in that kind of a situation there are instances where organizations, corporations, people within corporations or churches, even, do disagree as to control of the organization. They file a lawsuit to resolve that.

In this case, in that they claimed to have evidence of expenditure of massive amounts of money for illegal activities, it appeared as if a court could act, given that information, from people who had the knowledge, a court could simply act to curtail this kind of thing and freeze the accounts until some responsible individual could be installed to oversee the organization's activities.

Now that's -- you know, I'm not an attorney, but that's -- from what I could gather and what I transmitted into these people, it was their show. I wasn't mine. I was helping out.

Q. That is your understanding of what you were dealing with in that second answer?

A. I think that I have written it here in various ways. I could read this if you want.

Q. I would like you to do that, sir.

A. Okay. This is the way to get a Court to act with urgency regarding accounts. The key is the affidavits on the expenditures of funds and the transfer of funds to ASI, as the complaint really makes clear. We knew of transfer of funds to ASI. That came outside of Org. Homer Schomer testified about massive amounts of money being transferred to a profit corporation, that's one thing. They knew of it. These people told me that they had account records which showed transfers of funds where they ought not to have been transferred. That's their information.

The transfer of funds and the illegal expenditures of funds to the PIs and lawyers, all the crap they are involved in, for example, an affidavit from John Nelson regarding the

Krentzman deal. The Krentzman deal was the judge in Florida. John Nelson was a person who had in fact been the commanding officer of the Commodor's Messenger Organization. He had apparently -- I never have spoken to him on the subject. These people knew about it; a lot of people knew about it. I'm pretty sure it was covered in the press in Florida.

Q. Are you aware of the fact, sir, and were you aware of the fact in 1984, that that allegation concerning Judge Krentzman had been fully investigated in Florida and that no charges were brought against anyone?

A. I don't know that to date it's been fully investigated.

Q. Do you know that it hasn't?

A. No, I don't.

Q. You don't know one way or the other, do you?

A. I was going on what these people were representing to me. I was told at the outset that these people knew that private investigators were paid a quarter of a million dollars to charter a yacht, install a secret TV camera, and to film individuals who were brought onboard by the private investigators.

Q. You you told them that, sir?

A. I got that from them. I asked them about the whole picture, because there was a further allegation of the use of drugs and prostitution to set up Judge Krentzman. They said, "We don't have any information about drugs and prostitution. We do know" -- and what I have said -- "about the yacht, about the TV camera, about the quarter of a million, and about the PIs."

Q. Do you recall saying to Joey, as it says on the tape, "There were no prostitutes, there were no drugs, there was a boat." Is that what you said to him in substance?

A. I possibly gave him their -- I don't recall. Again, you know, we could replay it and refresh everyone's memory, but that's basically what I got from Joey at the outset. It was one of the first things, that and the Flynn deal. That's one of the techniques they used to entrap me was: We're going on the knowledge that this is a setup of Flynn. We are working to clear up Flynn's name. We think it's a setup by the PIs. That's a pretty good way to get Armstrong, seeing as he was friendly to Flynn -- he was my attorney, and I wanted to clear his name.

Q. Even to the extent of putting CSW in the file, indicating that it was a setup of Flynn?

A. Not to the extent of covertly videotaping, recording conversations and trying to set anyone up.

Q. Yes, but the CSW that you were talking about was directed to the issue of PIs and hence to the issue of Flynn, was it not?

A. That's your conjecture.

Q. I'm asking you what your view is of it.

A. I have stated it many times what the subject of the PIs was. This group said that they were scared to death of the PIs. They had good reason to be. However, as it turns out, they were in bed with the PIs. They wanted to get rid of the PIs. I said, make it known. The fact is these PIs are bleeding you. They are using Organization funds. They are getting you no products and they are going to end up causing you more trouble. There's the Krentzman affair, there's the Flynn affair, and now there's the Armstrong affair, there's the Armstrong tapes -- more trouble by absolutely unscrupulous PIs, unscrupulous lawyers. They wanted that stuff to end, so they said. I thought, good, it should end. And that's the CSW.

Q. Do you know whether there was or not a two million dollar check forged.

MR. WADE: Objection, Your Honor. Irrelevant.

THE COURT: Sustained.

BY MR. COOLEY: (Continuing)

Q. Keep reading.

A. I say, "An affidavit from John Nelson regarding the Krentzman deal, that would do it. I'll try to arrange, maybe Zegal can."

Q. Who is Zegal?

A. Zegal was a person outside the Organization. He was a person who was -- what the Organization called a squirrel. He was trying to practice Scientology without being controlled by the Organization. He had his own little group and he was auditing people and giving them courses and that sort of thing.

The Loyalists told me that they were in touch with Zegal and that they had a communication line to Zegal. They told me they had communication lines to various people on the outside who could assist them. They knew about Zegal; Zegal was in touch with Nelson. And it was either I could talk to Nelson or they could go through Zegal. Anyway, that was --

Q. Please keep reading. Would you read the whole thing through and go back and explain any portion of it you want to explain.

A. Okay. It's easier if I explain as I go along so I'm clear and I think the jury is clear.

Q. The problem I have with that -- I have trouble following what's documents and what's explanation. If we knew the whole document first, and then you would back up, we would be able to distinguish. If that meets with your approval of course?

A. I am going to continue on the way I am. I think we are getting it down fine.

"Q. Re actual crimes needed.

"A. Not so much crimes. I tried to convey the viewpoint of illegal expentitures or" --

Q. Are you reading now or aren't you reading? That's the trouble I'm having.

A. -- quote, illegal expenditures, unquote --

I'm reading.

-- "or use of the money of a supposedly charitable organization they thought they were joining for purposes of destruction and harassment."

This is the way they presented it to me. This is almost their words. They wanted the harassment and destruction to end. This was the come-on. The fact was, it was on paper supposedly: "charitable organization." I don't think you can have a that can harass and intimidate and destroy the lives of individuals. It's a fascist organization and it's a farce.

MR. COOLEY: Your Honor, this goes beyond the scope of explanation. I respectfully submit he's now telling about what he thinks.

THE COURT: I think that you will explain -- explain the answers as best you can. And I think your attorneys will be asking you some questions. I'm not trying to restrict your explanations in any way, Mr. Armstrong. If you feel it necessary to -- they are right there in front of you -- to explain even what you thought when you answered it. That's fine.

THE WITNESS: Thank you, Your Honor.

"A. That's it."

BY MR. COOLEY: (Continuing)

Q. What else?

A. "Let me make one thing very clear. You don't even need to prove that. That's what gives the Court urgency to move immediately."

"Urgency" and "immediately" are underlined.

"Across the country there are hundreds of cases, the issue in which has solely been a fight for control of the money."

And here this is what, again, -- this group told me, that's what they were seeking. Obviously, if they control the money, then they are in a position to curtail the illegal activity, to curtail the harassment. They talked of -- there's no reason why, as they called him, "little Hitler," David Miscavage should have control of a half a billion dollars. They wanted it. And they, with that control, would turn it into a "peaceful organization," to quote Joey from the tape.

Q. And settle all the cases?

A. "Even where one party is not doing anything wrong with it, they simply disagree over who should have control."

Answer to whatever question: "The Church should not be being run by ASI. ASI should not be controlling Church funds even aside from anything having been done wrong with expenditures."

That is a critical consideration. ASI, Author Services Incorporated -- it's a supposedly profit corporation. It's manned by Sea Org members. And even per the Loyalists, they controlled Scientology. David Miscavage came into the Organization, and from his position of Chairman of the Board of ASI, exerted control over the Organization. And that is simply not the way that -- you can't have General Motors running a church. It's not the way it works.

Q. Didn't the Watchdog Committee control it before that, and wasn't Miscavage on the Watchdog Committee?

A. The Watchdog Committee, as it turns out, are simply a bunch of puppets. It's another echelon; the way Hubbard worked it was to continually create more buffers, more groups.

At one point in the Organization, the Guardian's Office was the power group, with Hubbard on top. Then he established Bill Franks, ED International, over top the Guardian's Office. Hubbard's still in control. Then during this time there was WDC. WDC was parallel with the Guardian's Office at one point, then was installed on top, but senior to WDC was David Miscavage.

Q. The Watchdog Committee was David Miscavage, that is what you just said?

A. David Miscavage was at one point on the Watchdog Committee.

Q. How many members were there of the Watchdog Committee?

A. I can name probably nine.

Q. Was Terry Gamboa a member of the Watchdog Committee?

A. I don't know if she was or not. She was not at one point. And I doubt -- while she was on the mission, which was working directly for David Miscavage, which is the mission which became known by two names. It was Special Projects, Special Unit, or Mission All Clear. She was in charge of that; she was the Mission in Charge under David Miscavage, who was the Mission Ops, Mission Operator.

Q. Were you in the Organization when the GO was raided, cleaned out by Miscavage and crowd, or do you say that never happened?

MR. WADE: Objection, Your Honor. Irrelevant and beyond the scope of direction examination.

THE COURT: Sustained.

THE WITNESS: I was answering an earlier question which had --

BY MR. COOLEY: (Continuing)

Q. Which questions were you answering?

A. I was describing the various echelons which were established by Mr. Hubbard, and we were talking here about going up to ASI. He was asking about Watchdog Committee and wasn't it in fact true they ran the Organization. Not so. They became puppets of ASI -- ASI being run by David Miscavage, Lyman Spurlock, Norman Starkey.

Q. When was ASI formed?

A. Approximately March 1982.

Q. Are you sure of that?

A. This is, again, testimony in my trial at this time by Terri Gamboa.

Q. Before March of 1982, was it not the Watchdog Committee that was running the show?

A. The Watchdog Committee, during that period of time, ran organizational matters to some degree, but the real power structure of Scientology is L. Ron Hubbard, brokers, Miscavage, attorneys, PIs. That's where the power line is. That's where the money is.

Watchdog Committee, they could issue evaluations on, get a bunch of auditors into Org X or something to that effect. But that's not where the power lies. Watchdog Committee became a nonentity. They became, again, another ruse.

At one time it had some power. But no one in the organization underneath Hubbard has any power. Hubbard controls. And if Hubbard happens to be dead, then someone acting for him is still controlling as if they were him. The only one who ever had any power in the organization was L. Ron Hubbard. He could remove his own wife who was under him, who did that to the organization.

Q. Who did that? Who physically did that, sir?

MR. WADE: Objection, Your Honor; beyond the scope of direct. It's the same objection I had before.

MR. COOLEY: He gives explanations and I'm not allowed to ask any questions on them according to Mr. Wade.

THE COURT: Go ahead ahead, Mr. Cooley.

BY MR. COOLEY: (Continuing)

Q. Who removed Mary Sue Hubbard? Who went and did it, do you know?

A. David Miscavage.

Q. And she was then the Controller of the GO, wasn't she?

A. Yes.

Q. What was Mr. Miscavage's position at that time?

A. He was working on the -- He was in charge, underneath Hubbard, of the legal projects, Mission All Clear, purpose of which was to get Hubbard out of all the legal entanglements which he had gotten himself into.

Q. He was a member of the CMO and he was a member of the Watchdog Committee at that time, was he not?

A. Correct.

Q. And with respect to the GO, you, yourself, had attempted to become a member of the GO, had you not?

A. Correct.

Q. You had applied for a posting to the GO when, sir?

MR. WADE: Objection, Your Honor. This has been asked and answered in prior testimony. We went over this the first day of cross-examination.

THE COURT: Yes, we have, Mr. Cooley.

MR. COOLEY: All right. Just so I can refresh my --

BY MR. COOLEY: (Continuing)

Q. Was it in the Intelligence Division you wanted to work?

A. Again, we went over all that, but I did not state in any application where. I stated that I had done intelligence work. I had worked in close communication with Brian Rubinek; he was the Assistant Guardian for Intelligence on the ship; he had earlier been the Assistant Guardian for Intelligence in Washington, D.C. So it was presumed that I would likely go into that area.

Q. Going back to Exhibit 883, is it fair to say that the issues that were fundamentally being addressed by you dealt with what kind of allegations would have to be made in a complaint to induce a Court to act promptly before a full-scale trial on the merits to appoint a receiver for the assets and money of the Church of Scientology?

A. Well, what I'm saying here is, first of all, you don't even --

Q. Can you answer that question first before you explain, sir?

A. I'm answering that --

Q. Can you answer it yes or no?

A. No. It's a misstatement.

Q. All right. Now, let me ask, then, if that's a misstatement, another question.

MR. WADE: Your Honor, he said he can't answer it yes or no. He has a right to answer the question.

MR. COOLEY: All right. Let him answer it. I object to this procedure, but let him answer it.

THE COURT: Go ahead, Mr. Armstrong.

THE WITNESS: Thank you, Your Honor.

What I was saying and what this is all about is, "You don't need the crimes. You can" -- They wanted to take a stand. "You don't need these things. However, you don't need them in order to bring this thing into court and say that we are the organization and to make an issue of it. If you have the evidence of these illegal activities, which you claim, then you can get the Court probably to act with some urgency."

BY MR. COOLEY: (Continuing)

Q. If you have what?

A. "If you have the evidence that you -- If you have the evidence of these things which you claim."

Q. The urgency aspect, though, is getting the Court to appoint somebody to take over as a receiver or custodian of the Church's property and money while the litigation is being pursued; isn't that a fair statement?

A. That's what they wanted to do, yes.

Q. They believed, apparently, or were saying to you they believed they had to have evidence of crimes to induce a Court to do that, to act on that urgency basis; is that a fair statement?

A. Again, this comes from them --

Q. I understand that.

A. -- information provided by them. And that's my understanding. I have said that they don't need the crimes. However, given what you have got, you say you have got, and they were concerned about whether or not the organization -- they did not want the organization bled of all its assets, which they stated was happening.

Q. And that's what you are addressing when you say, "Let me make one thing very clear. You don't even need to prove that. That's what gives the Court urgency" -- you underline the word "urgency" -- "you move immediately." You underline the word "immediately". "Across the country there are hundreds of cases, the issue in which has solely been a fight for control of the money, even where one party is not doing anything wrong with it. They simply disagree over who should have control."

A. Those are my words.

Q. Those are your words indicating to the Loyalists that they don't need the kind of solid evidence of crime that they were talking about; that they can get a Court to take over the assets of the Church on much more slender allegations, isn't that so, sir?

A. Again, you know -- undoubtedly you are misstating this whole thing, because they are there -- they wanted to do it, their idea, they claimed to have these things. Then they asked about them again and I gave them what my opinion was.

Q. Now, was your opinion based upon any conversation with Michael Flynn giving you any legal advice and telling you about all these cases that there are across the country that permit this to be done?

MR. WADE: Your Honor, we would object on the grounds that this line of across-examination has gone far enough in this area.

THE COURT: The last question, if you are making an objection to it, is sustained.

MR. COOLEY: I'm not allowed to inquire on that, Your Honor?

THE COURT: That was my ruling.

MR. COOLEY: Note my exception.

THE COURT: You don't have to note it, you have an automatic exception, Mr. Cooley, in this state.

BY MR. COOLEY: (Continuing)

Q. Now, sir, how many times did you meet with Mike in Griffith Park?

A. Mike Rinder?

Q. Yes, sir.

A. Two.

Q. Do you remember the dates? Do you remember discussing with him the subject matter that we've just been talking about, namely, the nature of the allegations that would be sufficient to warrant a takeover of the Church's assets pursuant to a court order?

A. I don't remember the exact words, but I would have told them the same thing that I have been saying here. They are their allegations. They claimed at the outset to be working toward proving the Flynn setup.

Q. Did you at some point become quite exasperated with him in your discussions in Griffith Park?

MR. WADE: Your Honor, we object on the grounds of the cumulativeness of the testimony. The Court has a right to confine cross-examination or examination when it's a needless waste of time. We think it's reached that and point and we object to this line of questioning.

THE COURT: If this is for bias, you still have to lay a proper foundation.

BY MR. COOLEY: (Continuing)

Q. Do you remember being in Griffith Park with Mike -- I keep forgetting his last name. Would you give it to me again, sir?

A. Rinder.

Q. -- Mike Rinder on November 19, 1984, and on November 30, 1984?

A. Those are your dates and I assume that you are getting it off reports which have not been produced.

Q. And do you remember discussing with him the subject matter of what allegations would be sufficient to support a takeover of the Church's property.

MR. WADE: Your Honor, we would object on the same grounds we objected to prior.

THE COURT: Still not a proper foundation.

BY MR. COOLEY: (Continuing)

Q. Was Mike Rinder one of the so-called Loyalists?

A. There are no Loyalists.

Q. One that you understood to be a member of that group at that time?

A. I was taken to him initially by Joey.

Q. All right. And did you meet alone with him in Griffith Park in November of 1984?

A. I probably felt at the time that I was alone; however, I'm certain I wasn't.

Q. Well, where did you meet in Griffith Park?

A. I can't describe it. Griffith Park is a big park. I was taken there by Joey.

Q. Did Joey stay there with you?

A. No.

Q. Did he leave you and Mike sitting on a bench, somewhere?

A. He left me sitting on a bench.

Q. And did Mike join you?

A. Yes.

Q. And did you then proceed to have a conversation with him?

A. Yes, I did.

Q. And how long did it take place on the first occasion?

A. I can't tell you.

Q. I beg your pardon?

A. I can't tell you.

Q. Do you have any memory whatsoever?

A. Not as specific as a hundred and eight minutes.

Q. Did you discuss with him the subject matter of your ongoing relationship with the Loyalists and in particular the complaint that had been drafted by Mr. Flynn or the complaints?

A. He brought the complaint with him. He had -- You know, the whole thing, every question was clearly designed to get me to state something. The only reason we don't have a video tape here is because I didn't say anything. And he probably did.

Q. Do you remember discussing the nature of the allegations necessary to support a takeover of the Church pursuant to court order?

A. If there was a discussion, I would have reiterated whatever I had here. We discussed a lot of things. He wanted to know my viewpoint on a lot of things. He said, "We appreciate your viewpoint. You have an exterior viewpoint." He wanted to know my opinion on Scientology. He wanted to know my opinion on a lot of things. I gave him whatever I could, truthfully, at the time.

Q. Do you remember telling him that it wasn't necessary to have to be able to prove the allegation, it was sufficient to be able toit?

A. What I would have said, and I think that this is a pretty accurate statement, I was absolutely clear that "I am not in a position to give you guys legal advice. I can't do that. But in that you say you can't get out of the organization, you say you are terrorized by the organization, you say you can't go at this time to an attorney, so you have come to me for help. I'll help you as I can."

But I always couched whatever I was saying in that vein. "I simply am not an attorney. I can't represent you. And someone will make the case that in actual fact that we're antagonists. I don't feel that way toward you, because here I am helping you out. But my attorneys can't represent you. But if -- if you are willing to take stand" -- and that's always what it was based on -- "if you guys are willing to take a stand, and you say you want to get rid of the tyrannical nature of this organization, I'll do what I can. It's going to take a lot of guts. And to take a stand, you don't even need to absolutely prove this thing to the nth degree because it's a civil matter."

You are talking about crimes. They had been saying they wanted to get the crimes on these people, on David Miscavage, as they called him Little Hitler. They said that they had been working on it for some time. They said they had been in existence for two years. And I gave them -- You know, it probably became heated, at least the second meeting, probably became heated because this guy was asking me questions which obviously I was not giving him the right answer to. I was not being sucked into saying whatever he wanted to catch and put on video. And he was being stubborn and he was being stupid and I thought, "Well, damn it, you know we are running into some kind of an ego problem here." And that's -- you know, the next -- you know, the day after the meeting, I received a telephone call from Joey and he said something like, "We don't need your services any longer. Talk is cheap." Something like that. I guess that's all I had given them. The trap hadn't worked. I was -- I was broken up by it.

Q. Were you broken up at that second meeting by the fact that he was appearing to you to be very stupid and not getting your message that it wasn't necessary to have provable allegations, but merely necessary to make allegations to induce a court to act on an emergency basis and take over the Church?

MR. WADE: Objection.

THE COURT: Just a second, Mr. Armstrong. Sustained.

MR. WADE: I move to strike.

THE COURT: It will be stricken.

MR. COOLEY: May I consult with the Court for one moment, please?

THE COURT: Send the jury out, please.

(Jury was excused. Following proceedings held out of the presence of the jury.)

MR. COOLEY: May the witness be excused, please, Your Honor.

(Witness was excused.)

MR. COOLEY: Your Honor, the question put to the witness goes directly to the issue of bias. It goes directly to the question that he has been testifying to here; namely, that he was trying to persuade these people that they didn't have to have any substance to them, if they could just make allegations that would impart to a court a sense of urgency, it mattered not whether they were provable, whether they had merit or substance to them, that could induce a court to appoint a receiver to take over the Church; the goal being put these people in control of the purse strings, settle out the cases and their quid pro quo, then supposedly be a future management of the Church. I cannot imagine a more probative issue of bias for this jury. And the Court has sustained an objection to it, which I consider to be an unreasonable restraint upon my right of cross-examination --

THE COURT: You better read the bias section of the code again.

MR. COOLEY: I have read it very carefully, Your Honor.

THE COURT: And you better read 607 again.

MR. COOLEY: Well, if Your Honor is placing a ruling, that's a criptic comment. If it's based upon that, then I think the Court ought to impart to Counsel the basis for the ruling, because in my judgment it's entirely appropriate under 609.1. If another rule is being utilized by the Court to cut off my cross-examination, I ask --

THE COURT: I will tell you, Mr. Cooley, I'm going to use every rule that I think is right under the code. You are going to have to get it in under a rule that's right under the code.

MR. COOLEY: I am using Rule 609.1. I have laid the proper foundation under that rule which requires that all I do --

THE COURT: Did you make this statement?

MR. COOLEY: That's right.

THE COURT: Okay.

MR. COOLEY: And you have sustained an objection.

THE COURT: All right.

MR. COOLEY: To the question as to whether that is not what he did say to this witness -- I mean to this fellow Mike.

THE COURT: Yes. Now there are limitations on the amount of discretion I may impose. I have full discretion as to how far you can go with bias questions.

MR. COOLEY: If the Court is exercising its discretion to cut that off, then I should know that. But if the Court is saying I haven't laid a proper foundation, I think that's wholly incorrect.

THE COURT: I didn't say that to this last one. I said it to the other ones.

MR. COOLEY: I think the allusion to Rule 607 has nothing to do with this cross-examination either.

THE COURT: Yes, it does, because we are still dealing with questionable -- well, this last one wasn't taped, so I probably shouldn't say that. This is a different meeting. That's another tape. I was going to quote you a section from the code, but it's not pertinent to this question.

MR. COOLEY: Well, I have made my argument. I do not understand the basis of the Court's ruling and I really --

THE COURT: Well, I thought I made this all

-- I was trying to yesterday afternoon in chambers, we were going to go so far with this line of questioning. Now, there has been three or four different approaches to show your point already on this, Mr. Cooley. I think the jury perfectly understands what your theory is.

MR. COOLEY: Well, the evidence -- the meeting with Michael, is the exasperation on this witness' part is that people weren't moving fast enough to get this complaint filed to take over the assets of this Church. And he was trying to persuade them they didn't need anything that rose to the level of provable facts, just enough to stampede a judge into taking over the Church. If that isn't evidence of bias, I don't know what is.

MR. WADE: Your Honor, with respect to that, there is another -- when one is cross-examining and to attempt to show bias, the question is asked, in this case the question has already been asked to Mr. Armstrong. He explained his answer when he testified to and then we get another question from the defense counsel stating the way he wants to state it, "Isn't it true you said this for this reason?" And, of course, Mr. Armstrong is going to say no. But it gives him a chance to restate it.

That's another reason why this line is falling apart.

The second thing is -- the second thing is, that when that second answer is asked, the -- it is an improper question and it is then badgering or argumentative to the witness after it has been answered.

The third point is, that we have gone as far as we could possibly go to show bias. At some point the Court just has to make an end or we are going to be here for days and days and days. I think this has went along -- we have had the tapes which were shown and the tapes were supposed to show bias. We went through various different documents Mr. Armstrong wrote as part of this operation to show his bias, and now we are going back to the same things. In fact, in Exhibit 883, what we are talking about, Mr. Armstrong is talking about the urgency. He's explained about the receivership, he's explained all of that.

THE COURT: I heard it.

MR. WADE: And now we are going into it again.

MR. COOLEY: Incidentally, I offer Exhibit 883 into evidence. It's been testified to in full now.

THE COURT: 883 will be received.

MR. COOLEY: Thank you.

I simply say that the impediment placed on cross-examination on the issue of bias is the most serious impediment that can be placed, in my judgment, on cross-examination, and under the right of confrontation of a witness against you, the right to cross-examination is the most sacred right --

THE COURT: Providing it's true bias. I'm beginning to question this line of questioning. You say clearly it shows bias. Maybe I'm dense, Mr. Cooley, but when he's giving an opinion as to his urgency in response to a question being given to him by someone else whom is not here to testify as to what the question is --

MR. COOLEY: Not yet.

THE COURT: Not yet. What you can do on bias is lay the foundation, "Did you make this statement?" The witness then says yes or no. Period. That's as far as the code allows.

MR. COOLEY: But the Court didn't let him answer the question.

THE COURT: Because I'm curious about the bias situation. Number one, it is cumulative. We have heard all this.

MR. COOLEY: We didn't hear that question before. And on the explanation Mr. Wade talked about, he never answered the question.

THE COURT: I know. I'm directing this to you, not Mr. Wade.

MR. COOLEY: All right. What is it you would like me to answer, Your Honor?

THE COURT: He is giving an opinion as to an urgency of filing a lawsuit. How is that --

MR. COOLEY: That isn't it at all. That isn't what urgency means at all in that context. He even admitted that. The urgency is to draft -- to have a complaint that has in it allegations which impart to the Court a sense of urgency which the Court then ceases upon as a matter that has to be acted upon and appointments a receiver for the assets of the Church. That's what it's all about. To get the present -- the Church, my client, Church of Scientology of California, to get that taken over by somebody other than its current management, for the purposes of giving the so-called Loyalists control to settle up the litigation and then march along with --

THE COURT: I must be hearing the questions and answers differently than anybody else. I hear him saying this was a nonexistent group out to get -- there were no Loyalists.

MR. COOLEY: He didn't know that at the time.

THE COURT: Of course he didn't know that at the time.

MR. COOLEY: So it's his state of mind we are dealing with here, Your Honor. Nothing else.

THE COURT: But when you plant a question into somebody's mind to illicit a certain response, is it in fact that person's state of mind or just a response to that question?

MR. COOLEY: Your Honor, what you are doing now is really -- we have played the tapes for the jury.

THE COURT: I think we should stopped with the tapes, frankly.

MR. COOLEY: It's up to the jury to decide whether that was implanted in his mind or whether -- I'm now dealing with two completely different meetings with a different person. In which the subject matter of these complaints is pursued. If the Court does not feel that a showing on the part of this -- a showing of a state of mind on the part of this witness, "For goodness sake, get the complaint filed. It doesn't matter if you can prove it or not. We can take over the assets of the Church no matter if we make allegations that are serious enough and we will worry about proving them later." That's the point that seems to me is so crucial to show on the part of this witness.

THE COURT: What you are getting into is a situation for the appointment of a receiver. You know as well as I do, Mr. Cooley, how that's done. What we are planting in front of this jury -- frankly, he is not too far off. You get issues in front of a court saying, "Here we have a problem. Two opposing factions regarding assets of a corporation."

MR. COOLEY: That's right.

THE COURT: It is urgent before they are dissipated, before they are wasted, whether whatever. That's the allegation you make to get a receiver appointed.

MR. COOLEY: Your Honor, --

THE COURT: Then it becomes a court matter.

MR. COOLEY: Your Honor, let me just say this to you --

THE COURT: I can't zero in on the bias as aspect of it.

MR. COOLEY: Well, when we put together a total package here, and I believe we have a package here which the jury may reasonably infer the following: that you have got a step-by-step process where the first thing you do is you plant some evidence in the defendant's files. Some evidence that is incriminating against them. Then you hurry up and you make some outlandish allegatoins, whether you can prove them or whether you can't, that stampedes a judge into putting somebody in there to to take over this Church and take over its assets.

Then when you get to the discovery, you go along and you find these incriminating documents in the file and say, "Aha, you see, we told you all along." Now, present management has no idea how they got there. That they were manufactured and planted. And we are going to bring them down that way.

It seems to me I have a pretty strong issue of bias when I'm able to establish facts that create those kinds of inferences for a jury. And if the Court doesn't see it, there is nothing more I can do about it.

THE COURT: I think you have got some issues of conduct, certainly, but I'm not as clear as you are that that's bias as defined in the code, Mr. Cooley.

Now, I think you can do this. I think you can ask him, you have laid the foundation of where, when, time, who. Have you got -- you must have something you are reading from there. "Did you make this statement?" The witness then says, "Yes, I made it." If he says, "Yes, I made it," that's the end of it. If he says, "No, I didn't make it," then if you want to produce evidence to the contrary, that's up to you. That's what the code provides.

MR. COOLEY: All right. I'll do it that way, Your Honor.

MR. WADE: Your Honor, with respect to that, it even seems at some point, and I thought maybe we had reached that point now or soon will, that this entire line of questioning has to end. The questions with respect to what -- we have seen the videotapes of what he told Joey. Now we are get to a line of questions of two meetings with Mike Render. Two meetings held at the same park during the same time period when Mr. Ingram still had his approval from Mr. Rodriguez.

THE COURT: Now I'll give you a lecture, Mr. Wade. I don't know why you objecting to it. I think Mr. Armstrong is handling those questions pretty well.

MR. WADE: It's just the time, Your Honor. The accumulation, how long -- if this is going to last another day, another two days.

THE COURT: My understanding was we were trying -- he was going to try to complete it by another day.

MR. COOLEY: Judge, I have never in all my life been confronted with a cross-examination where these explanations go on and on and on and are never subject to being cut off. But that's the -- I am informed that's the rule in Oregon and t the rule we are playing by here. But it's those speeches that are taking the time. Every question takes forever. If he would answer the question -- The only time, you know, that he really answers the questions and doesn't make speeches is when I start getting very specific with him about a meeting at that time and a place. Then he doesn't really know what I've got. And he's worried about that so he gets very circumspect. But boy when he's rolling, he could go on forever. I'm not making the delay. It's those answers that I submit are unresponsive to the question. And are under the guise of explanation are merely allowing him to do what would normally be done on redirect examination in any proceedings I have ever been in.

THE COURT: Okay.

MR. COOLEY: He puts in hearsay, he puts in the most outrageous allegations. I try to cut him off and the Court never allows me to do it. I don't know where -- what I can do to shorten this examination. And I tell you, Your Honor, I'm going to take as long as it takes.

THE COURT: Nobody put you on a time schedule tham I'm aware of, Mr. Cooley.

MR. COOLEY: Okay.

THE COURT: Isn't that a fact?

MR. COOLEY: Nobody has put me on a time schedule. But, you know, I don't want to be pressed into one now, because this is a very --

THE COURT: Do you feel you are being pressed?

MR. COOLEY: Will, when we started talking about you thought we were going to finish this up, because I am not going to finish this up. I have got an awful lot to do with this witness and if the Court will hold him on a tighter tether, we will get along better. That's all I'm saying.

THE COURT: Well, I said yesterday afternoon and I am going to watch this fairly closely the rest of this day, we are not here to build a case for whatever cases are going on around the country. I'll address this to the gentlemen in the audience. I'm trying the Christofferson case.

MR. COOLEY: Two days we gave him discovery in the California case.

THE COURT: Well, I don't know where the lawyers present are from or what cases and I don't really care. That's their job. It's that we are trying the issues in this case, as I see them, and I'm going to try to limit it to that.

MR. COOLEY: Yes, sir.

THE COURT: We'll take a few minutes.

(Court recessed at 10:57 a.m. and reconvened at 11:17 a.m.)

MR. COOLEY: Before we bring in the jury, Your Honor, you remember, I told the Court I would continue my examination. I told the Court I was continuing to check on whether there were additional tapes, and I am now informed there are tapes of meetings with Mike Rinder on November 19 and November 30, 1984. I have no intention of using them, but I want to inform the Court that they do exist.

MR. McMURRY: We would like them produced forthwith.

MR. COOLEY: I object to that.

THE COURT: Well, I asked the other day for all tapes, videotapes, and so forth, to be produced regarding the Armstrong Operation.

MR. COOLEY: I understood the tapes were for the Court, not counsel. I was not required to produce, in the midst of my cross-examination, the tapes of the --

THE COURT: Now, how did we find this information?

MR. COOLEY: I have had Mr. Peterson check on the situation with the lawyer in Toronto.

THE COURT: Mr. Peterson, where are the tapes?

MR. PETERSON: They are in Toronto.

MR. COOLEY: I'll have them sent here.

THE COURT: Okay. Get them here.

MR. COOLEY: I'll be happy to present them to the Court. But the point is, the other tapes did not get turned over to Counsel until the Court determined they were going into evidence.

THE COURT: And these are tapes of what?

MR.COOLEY: The Rinder meetings of November.

THE COURT: We are not going to have any testimony about this meeting until I hear those tapes.

MR. COOLEY: I don't understand that ruling at all.

THE COURT: Well, just take it as a ruling. I was told that there were nonexistent tapes. Now we are getting --

MR. COOLEY: No, I didn't say that about the Rinder meeting. I said there were no tapes --

THE COURT: No, wait a minute, Mr. Cooley. Just a second. Let me talk now. I asked about tapes regarding anything to do with the Armstrong Operation.

MR. COOLEY: I told the Court I was still checking the Toronto situation.

THE COURT: I'm not blaming you, Mr. Cooley.

MR. COOLEY: I had determined there was no tape of the hotel meeting, there was no tape of the lawyer's meeting; that I had not completed my investigation of the existence of tapes, any other tapes with respect to Toronto. And I have now determined that there are tapes of the meeting with Rinder on November 19 and 30, and I'm telling the

Court that. I'm not concealing anything.

MR. McMURRY: May I be heard, Your Honor?

THE COURT: Absolutely.

MR. MCMURRY: This Court on Monday --

THE COURT: And don't get angry.

MR. MCMURRY: I'm not. I certainly wouldn't want to do that.

This Court, on Friday and again on Monday, ordered all writings, all reports, all wires, all recordings of any kind from any source, including the Toronto lawyer, Ingram, and anybody else, were to be furnished to this Court by Monday morning. And there was colloquy: "That's a big order, but we'll do it."

Now here we are on Thursday and low and behold Peterson finds -- not Mr. Gutfeld, but Peterson -- finds, yes, there's a Toronto tape. Now, he didn't find it on Friday, Saturday, Sunday, Monday, Tuesday, or Wednesday. He finds it on Thursday. Now, I also suggest that the cross-examination that pinpoints the 19th and 30th of November must be in the form of some report, must be in the form of some memorandum.

THE COURT: Is this the meetings of --

MR. MCMURRY: -- of good old Rinder meetings --

THE COURT: Okay.

MR. MCMURRY: -- which have been referred to by Mr. Cooley as occurring on the 19th and 30th. There must be some evidence, unless the Toronto lawyer is in court and can shed some light on this sudden information, as to date, time and place. There must be some evidence that, low and behold, Mr. Peterson might be able to enlighten us on. The contents and the times are clearly within the knowledge now of Mr. Cooley, and we can only suppose that source of information is Mr. Peterson, specially admitted as an officer of this court.

We would suggest, Your Honor, that the cross-examination on this setup be terminated. It's obvious that the Court's orders are not being complied with until it suits the purpose of the defendant, Church of Scientology of California, and that obviously evidence is being used from this setup to harass and intimidate this witness, and it's an ongoing operation to this very day, to this very last hour.

MR. COOLEY: Your Honor, you may recall in Mr. Gutfeld's testimony he said, "That is not within my ability," at which time I announced to the Court --

THE COURT: I'm not blaming Mr. Gutfeld.

MR. COOLEY: Let me please finish. I stood up and I said, "I'm handling that aspect. I am continuing the investigation; I have not completed it yet. I will report to the Court when I do."

I have now reported to the Court. There is no concealment of any tapes here. Now, with respect to --

THE COURT: Do you want to know what bothers me?

MR. COOLEY: What, sir?

THE COURT: When I had Mr. Peterson stand up, and I said, "Are there any more tapes or documents or anything with reference" --

Don't shake your head at me, Mr. Peterson. Just get up here because you and I are going to have a little talk.

MR. PETERSON: Good.

THE COURT: And you said you didn't have any.

MR. PETERSON: That's correct.

THE COURT: You didn't tell me they were in existence somewhere else.

MR. PETERSON: At that time, when I said it, I did not know. We have been trying to track down the tapes. We have been trying to track down, you know, the Toronto attorney and his investigator. The investigator has been out of the state on some sort of investigation. When we get out of court here, it's 5:00, 5:30 by the time we get back to the apartment, and it's late at night in Toronto. We have been unable to locate Mr. Ruby.

At the time I represented to the Court that I had nothing, I had nothing. And I still don't have tapes. And I have no documentation regarding the Toronto tapes. As I had said, it was done by the Toronto attorney and a private investigator, not me, not the Church. Mr. Gutfeld was telling the truth when he didn't even know of the existence of this taping, because it was not done through the Church and no one was told about it. That's why we don't have it.

THE COURT: Mr. Cooley somehow has information about it.

MR. COOLEY: I had information about the meetings that took place and I have access to Michael Rinder, Your Honor.

MR. PETERSON: Right.

MR. COOLEY: I assume the Court will give me some credit for doing some attorney work product here.

THE COURT: No question about that.

MR. PETERSON: I believe the Court ordered we get the five boxes, and they are sitting over there. We have always endeavored to comply with the Court's orders.

THE COURT: I sometimes feel that I am being used in this case, that I have been tolerant, I have listened to representations by all Counsel, I have accepted those. And then something comes along different. It never is anyone's fault, and it's never anyone's responsibility. But somebody has to be responsible. Somebody has to be responsible for seeing that when a Court orders something, it's done.

MR. PETERSON: When we started preparing the case, we had no idea of the scope of the testimony; for example, Mr. Armstrong, or any other witnesses. That's why we didn't have tapes down here, we didn't have all the stuff here and available. Discovery has been ongoing since the beginning of trial, as evidenced by those boxes. Those are our entire files for the cross-examination of this witness sitting over there. I mean, it hasn't helped us, these discovery orders, and we are doing our best to comply with the orders. As Mr. Cooley said, we had no plans of playing the tape. We had enough trouble with this tape. Two more tapes would be -- it just wasn't in the plans. That's why the stuff isn't here, because we had no idea it would be needed.

MR. WADE: Your Honor, I share the Court's concern and I realize Mr. McMurry and I are getting a little indignant. I mean, Mr. Peterson stood here the other day, and certainly maybe he didn't say, "The tapes don't exist anywhere and I don't know about them," but he certainly inferred there were no tapes. None whatsoever. And that's all we have heard is those tapes were not in existence.

Mr. Gutfeld testified from the stand: nobody knows about those tapes. Mr. Armstrong testified about it, about people saying the tapes didn't exist. That's what they said; they said the tapes didn't exist. I remember that statement: "They don't exist." And now they do exist. Now they want to cross-examine on the subject when they have tapes.

The first thing, they can't cross-examine in that area until we get the tapes. The Court ordered the tapes be produced; they should be produced. And it is incredible to say, as Mr. Peterson has just said, "We didn't think we needed those. We didn't think we needed to use those. You used the two tapes. You saw the problems we had with the two tapes. We didn't think we would need these other tapes."

Somebody in the Church certainly knew those tapes existed. And just because they didn't want to use them or they didn't want the testimony from those tapes, that's why they weren't here. That's why they weren't produced. It just doesn't make any sense. This cat-and-mouse game doesn't make any sense at all. An attorney or witness stands up and says things don't exist, the tapes don't exist, the program orders don't exist, nothing exists, and then later on we find out they do exist. And I don't think it's anything less than misrepresentation.

MR. PETERSON: Your Honor, I stepped forward at the last hearing. I wasn't on the stand. I volunteered that Mr. Wade or Mr. McMurry or the Court could ask me any questions regarding any documents or any tapes or anything. These two gentlemen had no questions, and I said, "Your Honor, I personally have no documents." They were talking about documents at the time. I had no knowledge regarding those tapes until Mr. Cooley asked me, because he couldn't get in touch with the Toronto lawyer, if I would help him get in touch with the Toronto lawyer because he was in trial all day. And there's been --

MR. COOLEY: Nonexistence, Your Honor. You may recall you asked me about whether there were tapes of the hotel meeting. I said there were no tapes that I knew about.

THE COURT: I tried to be as thorough in asking that question as I possibly could, because I don't know of all the meetings. That's why I made it as broad as I did.

MR. COOLEY: I specifically told the Court that I was still investigating the Toronto aspect of it to see whether there were any further conversations, tapes. I had satisfied myself that nowhere was there a tape of the meeting in the hotel room or a meeting in the lawyer's office. I then said that I knew that Mr. Rinder had met on two occasions with the witness.

As a matter of fact, the first time I had met Rinder in any detail was when the witness spoke about it. I wasn't familiar with the fact that they also had met at Griffith Park. I learned that; I spoke with Rinder; I had Mr. Peterson chase it down, and I now know there are two tapes. I don't intend to play them. Although from what I understand from Mr. Rinder, there is plenty of good stuff on there for me. The reason I don't want to play it is that it has taken us a week to deal with the first two tapes, and that is enough time. Now I will present them to the Court and let the Court view them, and I will --

The COURT: Are these videotapes again?

MR. COOLEY: Yes.

THE COURT: Done under the same circumstances as the last?

MR. COOLEY: As I understand, under the same circumstances and the same investigator.

MR. WADE: Your Honor, it's very strange to me that Mr. Cooley is able to obtain information that he says will show there are no tapes for the meeting in the hotel.

Now, if this was the lawyer in Toronto, why didn't he find out during that same conversation of the other tapes?

MR. COOLEY: The reason: I did not talk to the lawyer in Toronto. The thing was dealt with piecemeal. When the Court asked me -- not the Court, but when I was asked by Mr. Armstrong, he said, "Well, you undoubtedly" -- or he said to the jury, "You undoubtedly have tapes. I went to the hotel room, I went to the lawyer, and you undoubtedly have tapes."

Well, I didn't know at that time I had tapes.

THE COURT: Your argument even going into this cross-examination regarding these meetings was you, just got through telling me, on the basis of bias. Now we are back to the original point we were with the other tapes.

MR. COOLEY: That was bias.

THE COURT: And I said at that time they have got to be coughed up so they can be at least heard by me first and then by Counsel to see whether or not, number one, they are, they do show bias; and secondly, whether they were in their proper context.

MR. COOLEY: That came in the context of me offering the tapes. I'm not offering them now.

THE COURT: But they are here and we know they exist. And I see no reason why Counsel on the other side shouldn't know what's on those tapes.

MR. COOLEY: That's the first time the Court has made that ruling.

THE COURT: Because I think in this context I have been misled.

MR. COOLEY: I am very sorry, Your Honor, because I did not deliberately mislead the Court. I'm sorry I pursued the matter, frankly.

THE COURT: Did you hear me say "deliberately"? I didn't say deliberately, Mr. Cooley. I didn't say deliberately. If I would have said deliberately, I also would have been calling for a sheriff.

MR. COOLEY: Well, then, I don't know how I misled the Court.

THE COURT: Because you and Mr. Peterson have said, "That it," at least led me to believe there are no -- I asked, "Are there any more audio tapes?" I remember my conversation. "Are there any other video tapes? Are there any audio tapes of this Armstrong Project that we are dealing with here?" And I was led to believe by all the answers that there were none.

MR. COOLEY: I think if Your Honor reviews the transcript, you will see that is not the way it happened. I specifically left open the Toronto situation on anything dealing with --

THE COURT: When can they get here?

MR. COOLEY: When I go back for lunch, I'll check on their location. I understand I could have them here no later than tomorrow morning.

MR. McMURRY: Mr. Peterson is apparently the person that made the contact with Mr. Ruby in Toronto; certainly he should be able to give us the answer to that question, whether they are here or in Portland.

MR. PETERSON: Your Honor, it is just a matter of flight schedules. They can be put on a plane. I'm confident there are enough flights coming into Portland that they can be here by tomorrow. If not 9:30, by at least noon.

THE COURT: Well, they are going to have to get here.

MR. COOLEY: They will get here, Your Honor, and I will give them to the Court tomorrow.

THE COURT: They are going to be here immediately as soon as you can get them on the airplane and get them down here.

MR. COOLEY: We will deal with that when Mr. Peterson and I go back for lunch.

MR. McMURRY: The Court also ordered every other writing. The Court said, "This is inconceivable to me that there isn't a paper trail."

THE COURT: That's what I said.

MR. McMURRY: Precisely. And the only thing that was excepted from your order was the writings, the handwritings of Gerald Armstrong. Now, --

THE COURT: That was my order, Mr. McMurry.

MR. COOLEY: This is what I have been dealing with for two days.

MR. McMURRY: I submit that just from the beginning of this second attack through the Rinder meeting, and the specific language that is being used, that there is writings, and that they do exist, and that they are here in Portland and that they should be produced.

MR. COOLEY: That is not so. My information has come directly from Rinder and there are not writings to be produced and I'm not going to give him my work product under any circumstances.

THE COURT: Do I have to go through the litany again of what should be produced? I thought everybody by now should certainly understand it.

MR. COOLEY: There is no problem, Your Honor. These tapes, as I understand it, the last of the material to be produced.

THE COURT: I meant writings, documents, notes.

MR. COOLEY: I understand that.

THE COURT: Chalkboard material. Anything.

MR. COOLEY: I can tell you at this time I'm not going to have transcripts made of those tapes. I'm deliberately going to avoid that. There would be no documents.

THE COURT: Anything at all regarding the Armstrong Project, as it's been called here, has got to be coughed up.

MR. COOLEY: Everything is on that table or on the way from Toronto, I understand it, and that's it.

MR. PETERSON: Is that supposed to be stuff that dealt with the Armstrong taping incidents? None of that stuff has anything to do with --

THE COURT: No. I understand Mr. Gutfeld saying that doesn't have anything to do with the taping incident. Three boxes are claimed attorney/client privilege, two boxes may be discoverable matters or may or may not be. I haven't the looked at them.

Now, --

MR. McMURRY: Would you please put the question to Mr. Peterson item by item, writings, handwritings, notes, reports, debriefing, project orders. Just item by item to Mr. Peterson, please.

THE COURT: Would you give me a -- I don't know that terminology you are talking about.

MR. PETERSON: I don't either.

MR. McMURRY: I hand the Court what I just dashed off. I hope it will be clear enough for Mr. Peterson.

THE COURT: Okay. Mr. Peterson. We are referring now to all documents, writings, memorandums, briefings, debriefings, evaluations, program orders, reports, all tape recordings, or electronic recordings, mechanical recordings, wire taps. Well, the third one I'm a little bit bothered by Mr. McMurry. I think that's not a matter for this Court. I think it is a matter for a court.

MR. McMURRY: What other Court can make inquiry at this stage, Your Honor?

THE COURT: I think a California court is going to have to make an inquiry on this because I have no way of determining the authentication of police documents. We are back to that illegally seized evidence problem again.

MR. McMURRY: As the Court remembers, the Ingram exhibit, which is 876, had a date between November 7 and 14. The Rinder meetings, as we understand it now, occurred on the 19 and 30, if my notes are correct. So there must have been yet another authorization from Mr. Rodriguez or someone like him.

THE COURT: Because I didn't put much credence in that, if you remember correctly.

MR. McMURRY: That's correct, Your Honor. But if there is the tape, as they now admit, the videotape, then --

THE COURT: Then Mr. Cooley would argue they had authority.

MR. McMURRY: That's right. And --

THE COURT: Okay. Give me --

MR. PETERSON: If the Court didn't put any credence in it, whether the --

THE COURT: Mr. Peterson, did I ask for argument?

MR. PETERSON: Well, usually the procedure has been each side got to answer a question.

THE COURT: I didn't ask you a question. I'm only telling you what to come up with.

MR. PETERSON: What to look for.

THE COURT: And come up with.

MR. PETERSON: If it exists.

Your Honor, I have not seen any of this stuff and I don't want the Court to take the opinion that because Mr. McMurry writes it down, that it exists somewhere.

THE COURT: I now know there our videotapes, I just found out a few moments ago of another meeting in Griffith park. Now, if there is such a meeting and if it was videotaped, in order for it to have any smattering of legality, there had to be some authorization by some governmental agency to issue it, as I read the California Penal Code and Mr. Cooley explained it to me.

MR. PETERSON: That's part of it. There are two grounds that you can have a legally recorded conversation in California. One is police authorization, and there is another exception, too. But again, -- there probably is a letter in existence.

THE COURT: All right.

MR. PETERSON: We have one, I'm sure there were two obtained. I don't know.

THE COURT: Let's have that.

MR. PETERSON: I will make inquiry.

THE COURT: Now, here you say -- and I'm sure what you are referring to, Mr. McMurry, orders, Executive Directives, and amended orders or directives. What are we referring to? I want to make this very specific so there is no further misunderstanding as to discovery matters.

MR. McMURRY: Yes, Your Honor. I make it generic because I don't know what org it might be issued from. So I don't refer to just RPF, RRF, ASI, Sea Org, OSA, all of these little acronyms for their various intelligence operations. I want all orders, all program orders, directing the undertaking of anything.

THE COURT: Relating to Mr. Armstrong?

MR. PETERSON: That's a little broad.

MR. McMURRY: Relating to Mr. Armstrong and it goes on. It goes on.

THE COURT: Relating to Mr. Armstrong, his wife Joycelyn.

MR. McMURRY: Correct.

THE COURT: Mike Flynn.

MR. McMURRY: You recall in Exhibit 876, the Rodreguez also included Mike Flynn and others. I want to have all orders, all programs, all reports, whether they relate to Michael Flynn, Joycelyn, A Armstrong, myself, plaintiff, anybody involved in this litigation as a witness or as a party or as a lawyer.

MR. COOLEY: I object to anything going beyond Armstrong and his wife. I have no problem with Armstrong and his wife. We are not going to get involved in a wide sweeping discovery rematch now involving Michael Flynn.

THE COURT: Wait a minute. Mr. Cooley, as I understood the thrust of a lof of your questions of Mr. Armstrong, they dealt with Mike Flynn.

MR. COOLEY: That's right. Your Honor, if we get into a discovery match now on the issue of Michael Flynn, this case is never going to get started again. It's one thing to have it with respect to the witness, it's quite another with respect to Michael Flynn.

THE COURT: I can settle that. Then we don't ask any questions about Michael Flynn.

MR. COOLEY: I cannot believe what is happening here. I cannot believe it.

THE COURT: You want it all on your side.

MR. COOLEY: That isn't so at all, Your Honor. That is simply not so. I have never been confronted with more stringent restrictions placed on cross-examination.

THE COURT: And I have never been confronted with evidence turning up on a daily basis that has been ordered by the Court on many occasions.

MR. COOLEY: Well, I am prepared to rest on the record as it stands and I have daily copy.

THE COURT: You are not the only one that that has daily copy, Mr. Cooley.

MR. COOLEY: I will show you the daily copy. Your Honor is really accusing me of something that is really unjust.

THE COURT: I told you when start accusing you, Mr. Cooley, that I will have a sheriff down here to accompany --

MR. COOLEY: That will be fine. Then I would defend myself in an appropriate form. I have been threatened in this case with all manner of things. I have had restrictions placed on cross-examination, Mr. McMurry is allowed to attack opposing Counsel at will. The Court allows these witnesses who are attacking the Church to absolutely say anything they want on the witness stand. And then discovery gets conducted in the middle of my cross-examination, and now Mr. McMurry has the nerve to ask, in the middle of this cross-examination, that everything in the Church's files with respect to Michael Flynn be produced, and the Court says if I don't do it, I'm not going to be allowed to ask questions on it. That, Your Honor, is absolutely improper in my opinion, requesting things like that.

THE COURT: One more time you raise your

voice to me, Mr. Cooley -- Let this record indicate right now, this is the second warning I have given Mr. Cooley in two days regarding his attitude toward this Court. I am now prepared to take under advisement a matter of sanctions against Mr. Cooley.

MR. COOLEY: I object to the attitude that the Court manifests toward me. I think it's unfair, I think it manifests bias, and I think it manifests prejudice.

THE COURT: Fine. You may think whatever you will. I'm stating that for the record right now, Mr. Cooley. You'd better -- number one, you take things the Court says out of context, you twist them around and state them in a manner which is not what the Court says. Nobody has yet ordered Michael Flynn documents to be produced. Nobody has ordered you to do anything, yet. Instead of that, you conduct this harangue against the Court, which is highly inappropriate, which is not done by any lawyer that I'm aware of in the state of Oregon nor do I know any Court which will accept it.

Now, I don't understand the breath of Mike Flynn or Mr. McMurry documents.

MR. McMURRY: Yes, Your Honor. If the Court would look at Exhibit 876, a so-called authorization issued by Philip Rodriguez unto Mr. Eugene Ingram, the Court will note that the authorization allowing illegal wire taping and eavesdropping included --

THE COURT: Incidentally, I might say something else. And I don't -- I don't know whether it's going on or not, but everybody should be aware that there is to be no recording done in the courtroom with the exception of Court recordings. I failed to make that announcement earlier and I hope everybody understands that.

I don't know whether it is, I'm just making announcement that says under our court rules, it is not done. Okay.

MR. McMURRY: The Court will note on Exhibit 876 that the so-called authorization included the wiretapping or eavesdropping of Mr. Gerald Armstrong and attorney Michael J. Flynn and others for possible violation or attempts to violate certain laws and any other law. Now, I think with the revelations that keep coming out, that we should determine -- Mr. Flynn's name has been utilized time and again by defense counsel as if -- and he has stated in open court, a criminal conspiracy exists somehow, and I have challenged him to exculpate that off the record as to whether he would include myself or my law firm. I want to know what additional wiretapping, eavesdropping or recording occurred with Michael Flynn, and I would like to know what recording has occurred, if any, with me. And I would like it put to Mr. Peterson, who professes to be Counsel for the Church of Scientology, who apparently has more access to documents than Mr. Gutfeld or Mr. Cooley. I would like those questions put.

THE COURT: The proposition as to Michael Flynn I could almost answer myself. The problem with that is, they could be so voluminous as far as orders and directives and so forth that -- and I'm only guessing --

MR. McMURRY: I'm speaking of the wiretaps, Your Honor, and transcripts.

THE COURT: Strictly wire taps?

MR. McMURRY: That's right. Because that's how his name comes up in the context of Exhibit 876.

THE COURT: Mr. Peterson, do you understand his question?

MR. PETERSON: Yes. Is this started? I thought we were talking with reference to the Rodriguez letter and the Toronto -- you know, taping project, whatever it was, of Mr. Armstrong. That's the context that I viewing this in.

THE COURT: Yes, that's where we are. That's where we started. We started with that. He points out that this authorization, by officer Rodriguez, which I have noted before is not even on official stationary, says that this authorization shall specifically pertain to the investigation of Gerry Armstrong, Michael J. Flynn and others not known at this time.

And I guess your question, Mr. McMurry, is you want to know what else came within the purview of this alleged authorization.

MR. McMURRY: Precisely. Now, that's on point three, the on that I referred to. With respect to Armstrong and his wife, we want every report.

THE COURT: Mr. Peterson understands that.

MR. McMURRY: With respect to the eavesdropping and transcripts of any form, I don't care whether it's mechanical, electronic, video, wire, whatever method this guy Ingram uses, we want it.

MR. PETERSON: On who?

MR. McMURRY: On me, on Mr. Wade, on Julie Christofferson Titchbourne, on Mike Flynn, and on

Gerry Armstrong and his wife Joscelyn.

THE COURT: Mr. Peterson, can you shed any information for me on this?

MR. PETERSON: You mean whether they exist? Well, like I have -- on several occasions stated, this so-called Armstrong project was not commenced the by the Church, but --

THE COURT: I understand by Toronto.

MR. PETERSON: -- and a private investigator, Mr. Ingram.

THE COURT: I understand.

MR. PETERSON: I will make inquiries to see if any of these things exist as to the people Mr. McMurry has enumerated or listed out for me. Frankly, I don't think so, but I will make the proper --

THE COURT: Will you report back to me on that as quickly as possible.

MR. PETERSON: I can check on that when we make the arrangements to get the two tapT: That would be satisfactory. And give me the information. I'm not ruling on any of that. I have only ruled so far on Armstrong and his wife, Joscelyn. Do you understand that?

MR. PETERSON: Oh, yeah.

THE COURT: That, you understand?

MR. PETERSON: Clearly.

THE COURT: I'm withholding Flynn, McMurry, and et al, yet until you give me some information.

MR. PETERSON: That's fine.

THE COURT: Do you understand that? I hate to keep saying, "Do you understand that," with every every question, but I think I'm getting into that area where I've get to on the record "do you understand what I'm saying."

MR. PETERSON: And I want the Court and everyone that I understand and I'm going to do my best to comply, as I have always done.

Now the other stuff, Your Honor, I think we have complied with all that in the previous discovery and this ongoing discovery. As I listen to the things, I would like a copy of that list that -- you know, I think we have complied, but again --

THE COURT: You mean Mr. McMurry's list?

MR. PETERSON: All these EDs and aprogram orders and all that other stuff. And that I'm not so sure I understand. Maybe if I could --

THE COURT: Well, let's get an understanding before we recess.

MR. PETERSON: His last paragraph relating to

Gerry Armstrong, that's fine, his wife, Joscelyn, although her name hasn't been mentioned in this case, I don't think. But Mike Flynn, all these other people, all these policies and orders? It would be probably another hundred thousand --

THE COURT: No, no, no. I think I can clarify that. I thought you understood that. That only refers to this authorization for video taping and taping. Those other items do not refer to all those people.

MR. PETERSON: Executive directives, amended orders, directives --

THE COURT: Those are for Mr. Armstrong.

MR. PETERSON: I see.

THE COURT: Now, do you understand?

MR. PETERSON: Now, it appears to be clear.

THE COURT: Okay. We will recess for lunch until 1:30.

Mr. Runstein, I think I have to talk to you.

(Court recessed at 11:58 a.m., and reconvened at 1:33 p.m.)

THE COURT: Good afternoon.

MR. COOLEY: Good afternoon, Your Honor.

THE COURT: Mr. Peterson was going to give me a quick rundown, I think.

MR. COOLEY: I know Mr. Peterson made the call and the man was in court. The secretary said he had left for court.

THE COURT: Maybe he is still working on that problem.

Now, before we hear from Mr. Peterson -- and I'm hesitant about the cross-examination regarding the park incident -- do you have another area you can proceed to until Mr. Peterson reports back?

MR. COOLEY: Yes, I can.

THE COURT: Very good.

Mr. Armstrong, would you come up to the stand, please.

(Witness resumed the witness stand.)

THE COURT: I have taken under consideration those matters I have discussed this morning. I'm not going to take any sanctions against Mr. Cooley.

Mr. Cooley, are you paying attention?

At this time I'm not taking any sanctions against Mr. Cooley. Mr. Cooley's actions were not deliberate, I am convinced. And whatever comments he made toward the Court, I feel, were in the heat of his representation of his client.

MR. COOLEY: It's a long, tough case, Your Honor.

THE COURT: Do I take that to mean you agree?

MR. COOLEY: Yes, Your Honor.

THE COURT: All right. Let's get the jury.

Wait. Here's Mr. Peterson.

THE COURT: Mr. Peterson, any news for me?

MR. PETERSON: I put a call in to Toronto. The attorney was not in his office. He was expected back at the end of the day. And I said I would call back, and left my name and number. But I'm still confident that I can get in touch with him either later this afternoon or this evening and the tapes will be here. I don't foresee a problem.

THE COURT: Okay. And you are working on the other aspects?

MR. PETERSON: As soon as I can get through to him, I can ask about the other items.

THE COURT: Including all the questions we had. Some were relative to Mr. Armstrong; some were relative to other videotapes which may or may not be in existence.

MR. PETERSON: Right.

THE COURT: Communication, okay? We understand each other?

MR. PETERSON: We understand each other.

THE COURT: Okay.

Get the jury.

(Following proceedings held in the presence of the jury.)

THE COURT: Mr. Cooley.

BY MR. COOLEY: (Continuing)

Q. Mr. Armstrong, when you met with Rena, did you give her a copy of a manuscript of yours?

A. I didn't give her a copy. I gave her the original of -- it was not a manuscript in the sense of the document which was stolen from me was a manuscript, that it was more linear than the random assortment of papers which I let Rena look at. She, at that time, said she wanted to see them because she was in the publishing business, and I showed her some of these documents and -- they are not really documents. A majority of them were simply drawings. There were some writing amongst it, but they are not what I would call a manuscript.

Q. And did she retain it after you left the meeting?

A. She kept it overnight. At least I think it was overnight. And I believe I got them back from Joey either the next day or -- he said he didn't look at them, but --

THE COURT: Excuse me just a moment, Mr. Armstrong. I have a call from Salem, Chief Justice.

(Discussion had off the record.)

MR. COOLEY: Would you please read back that last part, so Mr. Armstrong can finish his last answer.

(The court reporter read back the last answer.)

THE WITNESS: -- but knowing that Joey has lied to me on virtually every other subject, I assume that he did. I gave them to her as she represented that she was a prospective publisher. She was interested in my art work, my writings.

BY MR. COOLEY: (Continuing)

Q. Going back to when you left Scientology on December 12, 1981, or thereabouts, did you on that occasion take any documents with you from the Organization?

A. The only documents I took are what I delivered to Omar Garrison. I have already answered that question. The subject has been litigated and there is a decision by the Court in Los Angeles, and I think that that Court -- that decision completely explains the facts and the ruling in that case. I think that to discuss it now is -- beyond that, an outrage. I would ask that decision -- I'll read the whole thing if you want. That lays out the facts, everything that happened.

Q. I'm merely asking you when you left on December 12, did you take some materials from the archives with you?

A. I explained that to you. I have already answered, three or four times, that question. I delivered the last of the materials that I had to Omar Garrison on that date.

Q. What about the materials that you left with Virgil Wilhight?

THE WITNESS: Your Honor, as I say, this thing has been litigated. I went through a prolonged trial in Los Angeles. The decision lays out all the facts regarding this whole thing, and I think it's improper at this point to put me through more when I have gone through that whole thing and the decision is what it is. I have answered these questions before.

BY MR. COOLEY: (Continuing)

Q. When you left on December 12, did you take materials that you gave to Virgil Wilhight to hold for you?

MR. WADE: Your Honor, we object. This certainly doesn't go to any bias against the witness. He's been asked questions before concerning what he took, what happened to those materials.

THE COURT: I know he has, Mr. Wade. The only thing I have not heard is this name yet.

MR. COOLEY: You have not heard Virgil Wilhight, I can assure you of that.

THE COURT: Do you wish to be heard, gentlemen, regarding this?

MR. McMURRY: Yes.

(Following proceedings held in chambers.)

THE COURT: Let's hear it.

MR. COOLEY: The witness testified previously in this case that all the documents he got came from Omar Garrison. I'm merely trying to show that in fact he took a couple of cartons of materials and gave them to Virgil Wilhight to hold for him the day he left the Church; that's all. I don't know what the problem is.

Furthermore, I object to him talking about having gone through a big trial and reading the decision. None that of that is binding on this jury on this issue.

THE COURT: Okay. The precise question is relating to documents he allegedly left with Mr. Wilhight. That question he has not been asked.

MR. WADE: What is the relevance of it?

MR. COOLEY: The relevance is he said he got all the documents from Omar Garrison.

THE COURT: Isn't this impeachment, now?

MR. WADE: He said he took documents to Garrison; the documents that he had of the Armstrong case were copies of documents he got from Garrison.

With respect to Wilhight or any other documents, I don't quite understand exactly what Mr. Armstrong is saying. I understand what he is saying with respect to the fact he took documents from the Church, that he was not supposed to take documents from the Church. That's exactly what's litigated in the Armstrong case, whether or not he had a right to take those documents or not.

And I think what Mr. Armstrong is saying, what makes a tremendous amount of sense, is now we are getting back to documentation taken from the Church, what was taken from the Church. That was the issue litigated in the Armstrong case, and that case went on for something like six or seven weeks, two months. He was on the stand for fifteen days. And now, are we going to start litigating that issue again? It seems to me the Church is estopped, in fact. If they are making an issue of it, they've lost that case.

MR. COOLEY: Estopped? He has testified here that all of the documents that he got came from -- Omar Garrison. He gave at least two cartons of documents to Virgil Wilhight to hold for him. That's all I'm asking.

THE COURT: Do you want to be heard, Mr. McMurry?

MR. McMURRY: Yes, Your Honor. It cannot possibly go to bias.

THE COURT: I don't think this is bias. I think this is some other purpose.

MR. McMURRY: So it is not relevant. Number two, it is within the doctrine of collateral estoppel, which says that: all claims that were litigated or could have reasonably been litigated in the Church of Scientology of California vs. Armstrong are precluded from further inquiry in a court, under any guise or any reason.

We won't be finished on May 19th on Armstrong's case if this continues. We have now been two-and-a-half days on so-called bias. This is clearly --

THE COURT: I don't think this is bias.

MR.COOLEY: This isn't a question of bias, this deals --

THE COURT: Now we are going back into his regular line of cross-examination.

MR. COOLEY: Right. This is dealing with what he has already -- he's already testified to in this case, and I simply want to show that he had two -- at least two boxes of documents that he took and left with Virgil Wilhight, not Omar Garrison.

MR. McMURRY: Then it goes to nothing. It's not relevant to any point.

THE COURT: Tell me where it fits in. They can impeach on certain grounds in Oregon.

MR. COOLEY: It's a prior inconsistent statement. I have prior testimony which he talks about leaving two boxes with Wilhight, and if he doesn't admit it, I'm going to show it to him.

THE COURT: Do you want to talk about prior inconsistent statements? That's your basis you are saying this is for?

MR. COOLEY: Yes. But if he says he did leave them with Wilhight, then I won't have to deal with it. If he doesn't, then I will show it as a prior inconsistent statement.

THE COURT: Different thing though.

MR. McMURRY: Prior inconsistent statement must have some relevance to the issues in the case before the Court.

THE COURT: They go toward playing the devil's advocate, Gary. Let's say we are going toward credibility.

MR. McMURRY: Then you've got credibility: "Were you ever reprimanded at school for being tardy?" For goodness sake, it has to be probative of some issue in the case for which he was put on, for which he testified in direct examination. This goes to character, Your Honor. This isn't some prior inconsistent statement on a fact that is relevant to the inquiry before this Court, not every inconsistent statement you have made in your lifetime.

THE COURT: No. In this case -- let me try to get this into some sort of perspective. In this case, he said he took certain documents, he gave them to Omar Garrison. That's what he said so far. You then want to ask him didn't he also give documents to Virgil Wilhight?

MR. COOLEY: Right. To hold for him.

THE COURT:Then my question to you, Mr. Cooley, would be so what.

MR. COOLEY: The point I -- he has already given sworn testimony in this case right here that all of the documents that he got were obtained from Omar Garrison; that the route that they took were that he, in his official capacity as researcher for the LRH biography, was sending documents to Omar Garrison; and after he left the Church, he got them back in the form of copies from -- some of them in the form of copies from Omar Garrison. That's his testimony.

And I'm attempting to establish that he didn't get all of those documents from Omar Garrison, that he had given two cartons of them to Virgil Wilhight to hold for him.

THE COURT: If we get into that question and answer, then don't we get into the situation of, on redirect, then saying to him: "Well, okay, wasn't an issue like this litigated in California?"

MR. COOLEY: I don't see how that decision comes in here. He has given testimony here. I don't have to accept as gospel everything he says here without impeaching him. But to put in Judge Breckenridge's decision here, by way of redirect --

THE COURT: You were saying he stole documents, is what you are saying, isn't it?

MR. COOLEY: I'm saying that he has not -- when he said that he gave -- got them from Omar Garrison, that he is not telling the complete truth.

THE COURT: Okay. The inference being that he stole them?

MR. COOLEY: Unless he takes the position they went from Wilhight, then to Garrison, too. That would be consistent. And I don't know what his position is on that score.

MR. WADE: It seems to me if we get into this area, of the documents, whether or not he stole the documents, if there are any questions what happened to the documents that became the Armstrong documents, then I think we should have a right on redirect to put in the memorandum of decision.

THE COURT: I thought I just said something to that that effect, if we are going to get into that, then it would seem to me if that's the issue that was tried -- and I don't know, I'm going to have to rely on you gentlemen -- if that's the issue that was tried --

MR. COOLEY: The Church of Scientology of California is a party here and was a party there.

THE COURT: So was Armstrong.

MR. COOLEY: But the Mission of Davis wasn't.

MR. McMURRY: Mr. Runstein hasn't objected.

THE COURT: You can ask it.

MR. COOLEY: If the price is that that's going to come in, I'm not going to --

THE COURT: Earl, that's an anticipatory ruling.

MR. COOLEY: You have already suggested it to me Judge.

THE COURT: I said I can envision that's

what's going to happen. I can envision they would probably do that. I'm not suggesting to them that's what they should do. That's up to Gary.

(Following proceedings held in the presence the jury.)

THE COURT: You may continue, Mr. Cooley.

MR. COOLEY: Thank you, Your Honor.

BY MR. COOLEY: (Continuing)

Q. As of mid June 1981, by whom were you employed?

A. I worked for L. Ron Hubbard.

Q. Did you report at that time directly to Laurel Sullivan?

A. Yes.

(Defendants' Exhibit 884 was marked for identification.)

BY MR. COOLEY: (Continuing)

Q. I show you what's been marked as exhibited 884 for identification. And I ask you, sir, whether that is a letter written by you to -- or a communication written by you to Laurel Sullivan on June 15, 1981, and whether at the bottom is her response?

A. Yes.

MR. COOLEY: I offer it, Your Honor.

MR. WADE: No objection, Your Honor.

THE COURT: 884 will be received.

Did I mention 883 was received, also?

MR. COOLEY: I think you did, Your Honor.

THE COURT: Okay.

(Defendants' Exhibit 884 was admitted into evidence.)

BY MR. COOLEY: (Continuing)

Q. In this letter you are asking, in substance, what your -- why don't you read your letter to Laurel and her ersponse to you.

A. "With the termination of MCCS, can you tell me where the Archives Trust Plan is at? Who is handling? What is the general plan? How are my actions regarding artifact, museum affected?"

Q. Would you read her response.

A. "The Archives Trust is being turned over to R accounts, whose hat it is to handle, inventory and determine who owns what. After that is done, then legal can take on the business of setting up a trust. Right now, it doesn't affect what you are doing. You are working for the CSC and supported by SOR belonging to CSC. When the new corp gets set up, you will be paid by the new corp, but very likely will receive your project funds by CSC. But will cross that bridge when we come to it."

Q. She says you are working for the CSC and supported by SOR belonging to CSC. Does that mean you were working for the

Church of Scientology of California, supported by Sea Org Reserves belonging to the Church of Scientology of California?

A. That is what is said by this document, however, what the actual truth is -- and this document went into evidence in the Armstrong trial. And it turns out that Laurel, who had the job of protecting L. Ron Hubbard and protecting the connection to L. Ron Hubbard, was simply saying that, was covering the fact. We could not admit at that time to a line of communication to L. Ron Hubbard. Laurel testified in the Armstrong trial as to the significance of what she said here. I know what I was asking. Her answer was a PR answer which had to be.

Q. Her answer was a lie?

A. Her answer was as directed. Her job in the organization was to cover L. Ron Hubbard's control. That was what MCCS was all about. Mission Corporate Category Sortout was -- the purpose of it was to allow L. Ron Hubbard to continue to control the organization while not be legally responsible for it. And the Archives Trust was part of that and there were a series of corporations which were being set up by MCCS. Laurel was involved, I was involved, because I was on the MCCS mission in the early days, in the early part of 1980. The thing went on until approximately July of 1981. And the corporations which were being considered by the MCCS mission finally resulted in what became known as ASI, Author

Services Incorporated.

Q. Sir, is that a lie that she wrote there that you were not working for CSC. She says you are working for CSC. Is that is a lie?

A. Well, in a sense yes, and in a sense no. CSC is L. Ron Hubbard. He controlled the whole thing. I was in the personal office of L. Ron Hubbard. I was working on L. Ron Hubbard's biography. His attorney said that, in fact, in order to get around the inurement problem, I would have to be paid by L. Ron Hubbard.

Q. Were you ever paid by L. Ron Hubbard?

A. That problem had --

Q. Were you ever paid by L. Ron Hubbard?

A. That problem had not yet --

MR. COOLEY: Your Honor, will you ask the witness to answer the question.

THE COURT: Just a second.

THE WITNESS: I explaining the fact changed, Your Honor.

THE COURT: Just a second, Mr. Armstrong. That's not too tough a question. His question is were you ever paid. You can answer it yes or no and then go ahead with your explanation.

THE WITNESS: No, I was not. I was to be paid. That problem had not yet been worked out by the MCCS mission. Shortly thereafter, the people who were in my situation, because I was in fact not only in reality working for L. Ron Hubbard, because everyone in the organization -- he runs it -- works for L. Ron Hubbard, but I was working on his things personally for which he was going to get a great deal of money. He was going to get the lion's share of this biography project which I was working on. And the people who were in a position such as me who worked directly for L. Ron Hubbard on his personal things, ultimately moved over into ASI, Author Services Incorporated. The profit corporation had to be profit in order to get around the inurement problem, which was a problem that the organization was trying to resolve.

BY MR. COOLEY: (Continuing)

Q. Did your money come from the Sea Org Reserves?

A. Yes, it did.

Q. Were the Sea Org Reserves the property of Church of Scientology of California?

A. Well, in a sense, yes, and in a sense, no. I couldn't --

Q. Wait. Please, could we deal with the yes sense first and then you can tell us about the no sense.

A. Well, they were part of the Scientology corporation.

However, L. Ron Hubbard was the one individual who could order Sea Org Reserves to do anything.

Q. Was he a signatory on any of the accounts?

A. He didn't have to be. He just simply issued the orders. He ordered it at the beginning of 1980 that unlimited Scientology funds be you allocated to get him a Nobel prize.

Q. Did you see that order?

A. Yes, I did. I worked on that project.

Q. And did you get him a Nobel prize?

A. Thankfully, no.

Q. Now, it says you are working for the CSC and supported by SOR belonging to CSC; all I want to know is whether that's the truth or whether that's a lie?

A. The truth of the matter is --

Q. Is that the truth or is it a lie, please.

MR. WADE: Objection, Your Honor. He's trying to answer the question.

THE COURT: Okay. Now first off, did you understand the question?

THE WITNESS: Yes, Your Honor.

THE COURT: Okay. The question is is it the truth or is it not the truth. You can answer that and then you can go ahead and explain it.

THE WITNESS: Okay, Your Honor.

In a sense, it's the truth. The truth is laid out in the -- in my case, this issue was litigated extensively --

MR. COOLEY: I object to that, Your Honor.

THE COURT: We don't want to talk about your case at the present time. Okay? Without reference to your case, you can make your explanation as to his question. Without the preface of whether it was litigated or not. If you understand his question, you can answer his question. Okay?

THE WITNESS: Well, I -- yeah. Your Honor, can I just say one thing.

THE COURT: No.

THE WITNESS: Okay.

BY MR. COOLEY: (Continuing)

Q. This is an internal document, this Exhibit 884, is it not, sir?

A. Yes.

Q. You wrote a letter to Laurel, Laurel answered you. Isn't that correct?

A. Yes.

Q. And you asked a specific question, and the answer that you got was -- or part of the answer you got was that you were working for the Church of Scientology of California and being supported by Sea Org Reserves belonging to the Church of Scientology of California.

Now, you say that is true in a sense and untrue in a sense. Now, in what sense is it true? And after you finish that, you can tell us in what sense it is untrue.

A. It's true in that everything, L. Ron Hubbard included, was Church of Scientology of California. And that's also the fact that makes it untrue. L. Ron Hubbard ran -- runs the organization. I worked for him, personally. We could not admit to that and we had to continue this charade. This document is taken out of context. It's a single document. There is a mass of documents. The mass of which proves the fact that L. Ron Hubbard controlled the organization and that I was working for him.

Q. How many direct communications did you have from L. Ron Hubbard concerning the biography?

A. I believe there were three.

Q. Are they the documents we have seen here and we have placed in evidence?

A. We have seen two of them, I believe.

Q. The first one was his response to your petition?

A. That's correct.

Q. The second one was what?

A. Nonexistence formula.

Q. And the third was what?

A. It was a report on what had gone on to date.

Q. Report from you to him?

A. Right.

Q. What was the date of that, do you recall?

A. Well, it was before he dropped out of sight, so it was before March of 1980.

Q. You just -- you then had only been working a couple of months; correct?

A. I had been working in the Sea Organization since February 1971.

Q. No. I'm talking about on the biography.

A. That's correct.

Q. Your research work, your petition was approved in February; right?

A. January.

Q. And you made a report to L. Ron Hubbard just before he left in March?

A. It's probably February.

Q. And in that, did you summarize for him any misrepresentations that you claim were being made about his history?

A. No, I did not.

Q. Now, going back to the criticisms that you had been giving to Laurel and to anyone else that you communicated with concerning misrepresentations about Mr. Hubbard's background, is it your testimony that you confirmed that there never was a cattle ranch in Montana?

A. I have stated what I have found to that time and what I knew this was. I knew that there was a horse ranch. I knew there was a homestead that his father had. I knew, from going through school records, where L. Ron Hubbard was living, from his earliest years. I recall he was five years old living down in Helena, and he lived down there for a number of years -- Helena, Montana. And to say that he was raised on his wealthy grandfather's cattle ranch is the misrepresentation.

Q. Incidentally, in the course of your research, did you ever come across any photographs of Mr. Hubbard astride a horse or --

A. There is one.

(Defendants' Exhibit 885 was marked for identification.)

BY MR. COOLEY: (Continuing)

Q. I show you what's been marked as Exhibit 885 and I ask you whether, in the course of your work as a researcher for the Hubbard biography, you came across those photographs?

A. All but one of them I have seen before.

Q. Which one haven't you seen, sir?

A. 1952, London. Well, I'm not sure. Maybe Johannesburg, 1961.

Q. That's this one here?

A. I believe that's how they are marked, yes.

Q. All the rest, did you find as you were searching through the archives? I'll take out the one you never saw before. You recognize that as L. Ron Hubbard, don't you?

A. Yes.

Q. Then I'll leave it in. When you were searching through the archives, did you find these photographs?

A. I found -- I say found -- I was the first one in perhaps some years to find some of them. Some of them were available in the organization and I was not the one to find them. They were included in photographic archives which, up to a certain point, were separate from the biographical archives which I accumulated.

MR. COOLEY: I will offer Unfortunately I don't have a duplicate. I will show the photographs to Counsel.

MR. WADE: Your Honor, we are going to object to these on the grounds of relevancy. The photographs of L. Ron Hubbard are simply irrelevant.

MR. COOLEY: These are part of the research that Mr. Armstrong did.

THE COURT: Why don't you let me rule before we have argument. I can save a heck of a lot of time.

MR. COOLEY: All right, Your Honor.

THE COURT: I'm going to overrule the objection.

MR. COOLEY: Good.

MR. COOLEY: I almost talked myself out of that one.

THE COURT: You are right. You almost did.

MR. WADE: Could I ask a question in aid of an objection?

THE COURT: You may.

VOIR DIRE EXAMINATION

BY MR. WADE:

Q. Mr. Armstrong, were you aware of any photographs of L. Ron Hubbard that were taken that were destroyed by the organization because they did not show him in a flattering light?

A. That is what they told to me.

Q. Would you explain, please, what photographs we are talking about and who told you they were destroyed?

MR. COOLEY: I object.

THE COURT: That's a matter for redirect, Mr. Wade. It doesn't go to this particular exhibit.

THE COURT: 885 is received.

MR. COOLEY: Thank you, Your Honor.

(Defendants' Exhibit 885 was admitted into evidence.)

CONTINUED CROSS-EXAMINATION

BY MR. COOLEY:

Q. Now, Exhibit 885, the first photograph in here, Mr. Armstrong, is a photograph of L. Ron Hubbard as a small boy astride a horse. Were you able to determine where that was taken?

A. No.

Q. Perhaps I'll get closer to you?

A. The answer is no. If I did, I may have known at the time, because I did ask his family, and if that's true, I don't recall it. Maybe on a tape of an interview I did with them. But in any case, it doesn't ring a bell.

Q. Here is a photograph of Mr. Hubbard which is labeled, "Boy Scout Montana, 1918". Do you remember this photograph?

A. Yes.

Q. Were you able to verify that this was indeed Mr. Hubbard in a boy scout getup in Montana in 1918?

A. Now, I --

MR. COOLEY: May I approach the witness, Your Honor?

THE COURT: You may.

BY MR. COOLEY: (Continuing)

Q. This is the photograph I'm talking about. We can look at it together. It looks to be Mr. Hubbard lying on a tree stump in a Boy Scout uniform in 1918. Were you able to verify that that was indeed him in Montana at that time?

A. Well, my recollection is -- you see, L. Ron Hubbard would have been in 1918, seven years old. And first of all, that's not a boy of seven.

Q. Let me see the date on that.

A. But he was not a Boy Scout when he was seven years old. So I would say that that's inaccurate. I would also -- My guess is -- Although I don't know for certain, my guess is that may be in the Pacific Northwest.

Q. Where in the Pacific Northwest?

A. The Bremerton area.

Q. All right.

MR. COOLEY: Do you mind if I show these to the jury as we go along, Your Honor?

This is the photograph we have been talking about in the Boy Scout uniform. This is the first one we talked about, on the horse.

BY MR. COOLEY: (Continuing)

Q. Now, the next photograph is labeled Guam, 1927. Is that a photograph that you located in the course of your search of the archives?

A. Yes.

Q. And were you able to verify that that was a photograph of Mr. Hubbard on the island of Guam in 1927?

A. Yes.

MR. COOLEY: That's the photograph. That's a big round hat he's holding on his stomach.

MR. WADE: Objection Your Honor to the comments of counsel.

THE COURT: Yes, Mr. Cooley.

BY MR. COOLEY: (Continuing)

Q. Now here's a photograph that says, "China, 1929." And this is Mr. Hubbard here, is it not?

A. Yes.

Q. And who is that, his mother?

A. Yes.

Q. And is that his father?

A. Yes.

Q. Were you able to verify that that photograph of Mr. Hubbard and his parents was taken in China in 1929?

A. I believe it was 1928.

Q. All right.

MR. COOLEY: This is the photograph we are talking about.

(Photograph was shown to the jury.)

BY MR. COOLEY: (Continuing)

Q. Now, here's a photograph that's labeled Puerto Rico, early '30s. Is that Mr. Hubbard there?

A. Yes.

Q. And is that a photograph that you came across while you were researching the materials for the biography?

A. The organization already had that one.

Q. And were you able to verify that that was indeed a photograph of Mr. Hubbard taken in Puerto Rico around in the early '30s?

A. Only by his statement.

Q. There is no doubt in your mind that that's him?

A. That's correct.

MR. COOLEY: This the small snapshot. This is Mr. Hubbard here.

(Photographs were shown to the jury.)

BY MR. COOLEY: (Continuing)

Q. Now, here is a photograph dated Washington, D.C., 1931. Is that a photograph of Mr. Hubbard leaning against an old-style airplane?

A. Yes.

Q. And were you able to verify that that -- Incidentally, was Mr. Hubbard a pilot?

A. Not licensed.

Q. Did he fly?

A. Yes, he did.

Q. And was this one of the photographs you dug out of the archives?

A. The organization had that one.

Q. All right.

(Photograph was shown to the jury.)

Q. I show you another photograph; It says Washington, D.C., 1931. Is that L. Ron Hubbard in that photograph?

A. Yes.

Q. Helmet and goggles?

A. Yes.

Q. What is he sitting in? The cockpit of an airplane or what?

A. A glider.

Q. A glider? Okay. Is this something you dug out of the archives?

A. That's an organization photo, as well.

(Photograph was shown to the jury.)

Q. Here's a photograph that says approximately 1932, possibly Rion, R-i-o-n, Air Force Base; that's a photograph of four men. Is the one on the extreme left L. Ron Hubbard?

A. Yes.

Q. And he's standing next to an old airplane?

A. Correct.

Q. Do you know any of the other three men?

A. I did not identify them. I may have had from a -- From a similar photo, I may have had notes on it, but I can't recall right now.

Q. Were you able to establish where this was taken?

A. Nothing other than what you have got there.

Q. All right.

(Photograph was shown to the jury.)

Incidentally, were you able to determine whether in those days you could fly without being licensed by anyone?

A. Well, he did.

Q. Now, here's a photograph dated Puerto Rico, 1932. Is that a photograph of L. Ron Hubbard?

A. Yes.

Q. And were you able to confirm that this photograph was taken in 1932 or thereabouts in Puerto Rico?

A. No. It's from 1934, and it's in Maryland.

Q. The state of Maryland?

A. Yes.

Q. Okay. Do you have any idea what he's doing there?

A. He's pretending to pan gold.

Q. How did you determine that was taken in Maryland?

A. Because I had a photograph, I had press in which he sent a letter to the press, and there was an article that was written about it, which he sent in to the press. And there's a picture of his then wife, Louise Grubb Hubbard, in exactly the same spot and exactly the same -- She took this photo; he took her.

Q. How did you find out it was Maryland and not Puerto Rico?

A. I'm telling you why.

Q. There was a letter that established that it was Maryland?

A. There was a letter, there was -- his wife was there. He was not married to his wife in Puerto Rico, he was married to her in Maryland, and that's a picture from the property they had in Maryland.

(Photograph was shown to the jury.)

Q. What property did they have in Maryland? Where was it located, Mr. Armstrong?

A. Bealsville -- I don't know, some --

Q. Here's a photograph that's dated 1935. Is that Mr. Hubbard sitting at a typewriter?

A. Yes.

Q. And it says the picture was taken possibly in New York. Were you ever able to establish where, in fact, it was taken?

A. Not with certainty.

(Photograph was shown to the jury.

Perhaps you could ask Mr. Hubbard.

Q. I'll drop him a line.

A. Good.

Q. And here's a photograph of Mr. Hubbard. On the back it says, "Washington state, 1940." Is this a photograph from the archives? Is it a photograph of Mr. Hubbard?

A. Yes.

Q. He seems to be standing on a log next to a river or stream. Do you have any idea where that was taken in

Washington?

A. No.

(Photograph was shown to the jury.)

Q. I show you a photograph that just says "1943" on the back of it. It's a photograph of Mr. Hubbard in uniform. Is that a photograph that you dug out of the archives?

A. I did have it in the archives. I think that's also an organization photo.

Q. Do you have any idea where it was taken?

A. I believe it was New York, and I think it was 1942.

Q. '42 instead of '43?

A. I think so.

(Photograph was shown to the jury.)

Q. Now I show you a photograph that on the back of it is dated "approximately 1943, West Coast, Washington state." It's a photograph of two men. Is the one on the left L. Ron Hubbard?

A. Yes.

Q. Do you know who the one on the right is?

A. It's a guy by the name of Roy Molton. He's -- He was the second in command onboard the vessel that they had.

Q. Was L. Ron Hubbard in command of that vessel at that time?

A. Yes. It was not Washington state, as he's got here, it was in the Albina Shipyards here in the Portland area.

(Photograph was shown to the jury.)

Q. I show you a photograph that is dated London, 1950. Is that a photograph of Mr. Hubbard standing next to a sports car?

A. Yes.

Q. Do you know where that is in London?

A. I did know at one point; I don't think it's '50, I think it's '52.

Q. Did you verify that that photograph was, in fact, taken at or about that time?

A. Yes.

(Photograph was shown to the jury.)

Q. Now I show you another photograph dated 1952, London. Is that a photograph of L. Ron Hubbard in an easy chair reading one of his own books, Self Analysis and Dianetics?

A. That's him.

Q. Did that come out of the archives?

A. Yes, it did.

Q. Did you confirm that that was genuine photograph at or about that time in London?

A. Yeah. I assumed it was.

(Photograph was shown to the jury.)

Q. I show you a photograph that says, "Johannesburg, South Africa, 1961." Is that a photograph of L. Ron Hubbard in Johannesburg, South Africa, at or about that time?

A. Yes, it is.

(Photograph was shown to the jury.)

Q. Now I show you a photograph that says, "United Kingdom, 1963, Saint Hill. Is that a photograph of L. Ron Hubbard at the Saint Hill Organization in the United Kingdom in or about 1963?

A. Yeah. I wouldn't call it Saint Hill Organization. It was at his home.

Q. Where was Saint Hill over there? Where was it located?

A. A couple of miles from East Grinstead, in Sussex.

(Photograph was shown to the jury.)

Q. Then I have a photograph of L. Ron Hubbard on a motorcycle, labeled "Parade Marshal, East Grinstead, Sussex, approximately 1963." Is that a photograph from the archives?

A. Yes.

Q. And was it taken at or about the date it bears in connection with some parade in which he was the parade marshal?

A. As far as I know, yes.

(Photograph was shown to the jury.)

Q. Now we have a paragraph that just says, "England, 1965." I ask you if that's a photograph of L. Ron Hubbard, as he appeared in 1965, in England?

A. That's L. Ron Hubbard. I'll go with the date.

(Photograph was shown to the jury.)

Q. Now, sir, I show you a photograph which is a photograph of L. Ron Hubbard that says, "Canary Islands, 1967," and he's holding a tripod with what appears to be a movie camera. Is that a picture from the archives?

A. That was a -- I think this is from off the cover of a magazine.

Q. What magazine was that on?

A. This may be a photo. But in any case, the same one appeared in an auditor magazine, for sure, and perhaps in an advance magazine.

Q. Do you know what the the camera is all about? Was he a photographer?

A. Yes, he was.

Q. Have you seen many of his photos?

A. I saw something that was called the "Dazzling Display of his Creative Genious", and --

Q. I take it you didn't agree with the dazzling nature?

A. No. But in any case, he was a photographer.

Q. As a matter of fact, didn't he shoot some movies or some training films and didn't you assist in that project?

A. That's right. He made a great deal of money off of me.

Q. Weren't you in charge of sets?

A. For a brief period.

Q. Before you went into the RPF?

A. No.

Q. Oh. Here's a photograph about 1973 in Lisbon. Is that a photograph of Mr. Hubbard as he appeared in 1973, and were you able to confirm it was, in fact, taken in Lisbon?

A. It's in Setubal.

Q. Where is that?

A. Portugal.

Q. Finally, there is a photograph labeled "approximately 1975, Jamaica." And I ask you whether that is a photograph of L. Ron Hubbard in 1975 in Jamaica?

A. Yes.

Q. And was that a port at which the Appollo called in 1975?

A. This is in Port Royal.

Q. In Jamaica?

A. Jamaica is a big island. We called -- We were in Kingston.

Q. I understand. But the Appollo, you had not yet set up a land base at Clearwater; is that right?

A. Correct.

Q. And so, had you scouted out the port in Kingston?

A. Yes. In fact the Mission orders for that are here in the courtroom somewhere.

Q. And you had recommended that be a port of call, had you?

A. That's correct.

Q. This photograph was taken at that time?

A. While we were there, yes. Not during the Mission.

(Photograph was shown to the jury.)

Q. Now, did the museum, for which you were collecting artifacts, ever get set up in LA before you left the organization?

A. No.

Q. Did you participate in the collection of those artifacts?

A. Yes, I did.

Q. And I think you have already testified that included a lot of his science fiction stories that you had bought as a collection; correct?

A. There were science fiction stories in the collection, that is correct.

Q. And it included many, many photographs; far more than what we have seen here, of Mr. Hubbard over the years?

A. I don't understand your question.

Q. In other words, part of the collection that you put together included a whole -- it covered photographs that were far greater in number than the photographs that we have just put in here?

A. That's correct.

Q. And they covered virtually his entire life?

A. Well, the last photos that I had -- and those were some of the photos which were stolen from me -- the last one was 1980, January 1980, and I never had anything after that. In fact, the latest one that I actually had in the archives was 1978. It was only after I was outside the organization that I came across this -- these 1980 photos, and those were part of what was stolen.

Q. How many of those were there?

A. There were thirty photos that were stolen. Fifteen covered a period in 1973, when Mr. Hubbard was hiding in Queens, New York, and fifteen covered the period from 1978 through 1980, and approximately half of them were from 1980.

Q. And where did you get them, sir?

A. The 1973 photos I got from a man by the name of Jim Dincalci.

Q. Is he a Scientologist?

A. He was in the organization. He was L. Ron Hubbard's medical officer for a period of time. He was with him in 1973 in Queens, New York. The other ones came from a woman by the name of Kimma Douglas, and she was with Hubbard in Hemet, California, when they were in an apartment complex which we referred to as X. And she left the organization in the beginning of 1980.

Q. Who stole your photographs?

A. Well, initially they were held by a man by the name of Virgil Wilheit. Virgil Wilheit had promised me some money for the three sets of photos: my photos, Dincalci's photos, Douglas's photos. I turned them over to him. The date went past when he was supposed to pay for them and I called him, and he said he had turned them over to the organization and he said he was contacted by a man by the name of Lyman Spurlock who, Virgil said, told him that he was an organization attorney, and Lyman had shown Virgil a declare on me. It's called suppressive person declare. And this was sometime in the end of April, and Virgil gave him the photos, so Virgil said.

I went to the organization within a day to get back the photos, and various people knew about it there: Terri Gamboa, John Alesso, Steve Marlow, at least one more guy; and these people all refused to give back the photos. Later, in my trial, Terri Gamboa testified that when she got the photos, she had destroyed them.

MR. COOLEY: I object to that, Your Honor.

THE COURT: Just a second, Mr. Armstrong, there's an objection and I have to hear it.

MR. COOLEY: He's about now to tell us about testimony in another case. I don't mind if he tells us about -- I asked him who stole them, and he's telling me a --

THE COURT: Is your next explanation going to be part of the answer to his question?

THE WITNESS: I only had one more line and that was that she -- you know, I only knew up to the point that they had them. In my trial she testified that she had destroyed them.

BY MR. COOLEY: (Continuing)

Q. Now, was Virgil Wilheit a Scientologist?

A. Yes.

Q. You gave these pictures -- thirty of them, is that it?

A. Forty-five.

Q. Thirty-five. Five of them were of your wedding, were they?

A. Forty-five.

Q. I'm sorry.

A. Well, my wedding --

Q. How many pictures of your wedding were there?

A. Let me explain. There was and I believe fifteen of them were photos of L. Ron Hubbard. So there was interspersed in this album -- I didn't have any particular use for it anymore, and I need the money, so fifteen at least, I can't give you a total count of photos, but there were fifteen of Hubbard within my album and there was fifteen of Hubbard from the Dincalcis and fifteen of Hubbard from the Douglas's.

Q. All right. Which Douglas is that, Kimma Douglas?

A. Kimma Douglas.

Q. So some of those photographs belonged to her. How did you get them?

A. Well, I happened to be out at her place and we were talking and she mentioned she had photos. I knew that there was a market for them and, in fact, I -- Virgil had many times been looking for photos because there was a number of Scientology collectors around, people who deal in Hubbardinia, and between us we came up with the idea, and Virgil agreed. Upon Virgil's agreement, I went to her and put together an album which contained her photos.

I did a -- I typed up a description of each one, she signed it. I did the same with the Dincalcis; I typed up a description. She signed it or Jim Dincalci signed it. You know, so that whoever was buying these things knew where they were coming from, they were authenticated and, you know, had -- it was something that had a value within the Scientology collectors' world. There's a reference to the fact that I did this in the Bl material which has been produced.

Q. You gave them over to Virgil Wilheit. What was he supposed to do? Sell them for you?

A. Well, when I turned them over to Virgil, he said that he already had sold them. In fact, he called up and I -- he left a message on my answering machine and he said, "Get them to me right away; they are sold." And --

Q. When did all this occur?

A. April 1982.

Q. When you found out that the photographs had been turned over by Virgil Wilheit, was it to Lyman Spurlock?

A. That's what Virgil said.

Q. Did you go to the LA Org to get your pictures back?

A. No. I went to Virgil and Virgil said they were with the -- that Lyman Spurlock had taken them. I went to the CMO building, not to the LA Org.

Q. You mean in the Cedars Complex?

A. That's correct. It's a separate building, separate from the other organizations. And it was always called the CMO building, and that's where Lyman and the various other people later became ASI, Author Services -- Terri Gamboa, Norman Starkey, Lyman Spurlock, that's where they were situated. That's why I went there, knowing they were the ones that had them.

Q. So you went -- did you go into the building?

A. That is correct.

MR. WADE: Your Honor, excuse me. But in the interest of time, we would object to the line of questioning on the grounds of relevancy.

MR. COOLEY: He raised the question that his pictures were stolen, therefore, I have to pursue it. It's part of an explanation to a question that I asked that doesn't have anything to do with stolen pictures. He mentioned stolen pictures and every time he does that, I have to pursue the line of questioning, Your Honor.

MR. WADE: Your Honor, at times witnesses will mention collateral things that happened. It does not mean that we go -- We object on the grounds of relevancy.

THE COURT: Is it about at an end, Mr. Cooley?

MR. COOLEY: Just about.

THE COURT: Okay.

BY MR. COOLEY: (Continuing)

Q. When you got to the CMO building, you spoke to Terri Gamboa, did you not?

A. No. Initially, I spoke to three men -- John Alesso, Steve Marlowe, and an unidentified man.

Q. Did you talk to Terri?

A. Terri came down after a -- probably fifteen or twenty minutes of rather heated demands and refusals. And she finally came down, sau her briefly. She said go get an attorney. And that's when I knew that I was fair game.

Q. You didn't have any reason to believe prior to that time that you were in any difficulty?

A. Oh, I knew prior to then, because I knew there was a B1 operation out to -- at a minimum locate me and to gather information about me, because various friends of mine, and friends of my wife's at the time, were contacted by B1 operatives. I knew that this was going on. I know that's the way they operate. I knew when Virgil said that he -- upon seeing the declare on me, the declaration, the suppressive person declare, I knew.

But that was an extremely traumatic point in it and it was that night I stayed up all night. I was extremely terrified. My wife was terrified, and that was the point I contacted one of the people, the Dincalcis, whose photos had been stolen, and they had already -- or were just then getting back from having met Michael Flynn, who, up to that point, I still considered an enemy. And on their recommendation, I flew up to see him at the nearest possible time. So the beginning of May, I met with Michael Flynn and saw him, because I thought my life was at risk.

Q. When you marched into that CMO office and fought over these photographs, you were not afraid for your life, were you?

A. I think that if they recorded that meeting, it will show that it -- I was pretty afraid. I even took along Omar Garrison and his wife and my own wife as witnesses. Because I felt that me, they would do something to if I went alone, but

Omar Garrison is a 73-year-old man. His wife is similar age. I knew that they were also wogs, and he agreed to go and I felt there was a great deal of security in the fact that they did come along.

Q. They were with you at all times?

A. They were either with me or right beside me. At one point we went -- they wanted me out of the lobby area where I was and into this little side room. But he was there. He heard the whole conversation.

Q. Didn't Terri give back the pictures that were yours in your album?

A. I got those back from Virgil. The other ones, I did not get back.

Q. The pictures you got back were the pictures of your wedding to Terri Gamboa?

A. That's correct.

Q. Aboard the -- well, when you were posted to the Apollo?

A. That's correct.

Q. So those pictures of your wedding you got back and the other pictures you did not get back; is that a fair statement?

A. That's correct.

Q. You have testified about this Ph.D. degree Mr. Hubbard got, from which you described as a diploma factory,

Sequoia University?

A. Yes.

Q. Did Mr. Hubbard allow himself to be known by the term "doctor", pursuant to his Ph.D.?

A. Certainly for a time he did.

Q. And didn't he, in fact, abolish any reference to him by that title?

A. There was a time when he did make that statement. I think he spurns in this thing, that type of degree.

(Defendants' Exhibit 886 was marked for identification.)

BY MR. COOLEY: (Continuing)

Q. I show you what has been marked as Defendants' Exhibit 886 and ask you if you recognize that as a Hubbard Communication Office Policy Letter of February 14, 1966?

A. Yes.

Q. And were you aware of that HCO Policy Letter sometime after you joined Scientology?

A. Sometime after, yes.

Q. And you became a Scientologist in what? '69? '70?

A. '69.

Q. Are you reading it, sir?

A. Yes, I am.

Q. All right. I'll give you a moment.

A. Okay.

Q. Would you read this to the jury, please.

MR. WADE: Your Honor, I don't believe it's in evidence.

MR. COOLEY: I'm sorry, Your Honor. I offer it.

THE COURT: It's now been offered.

MR. WADE: Well, we have no objection to him reading it at this time. I think, Your Honor, the fairness doctrine, I can't remember the name of the rule, we could perhaps also have him read a later policy letter which we have in evidence in the green books which refers to him as a doctor.

MR. COOLEY: I think that's more like redirect.

THE COURT: That's redirect.

MR. WADE: We withdraw the objection, Your Honor.

THE COURT: Okay. I think you are thinking of Rule 109 or 106.

MR. WADE: Yes, Your Honor.

MR. COOLEY: You term it Mr. Runstein's rule.

THE COURT: Yes, we term it Mr. Runstein's rule.

(Defendants' Exhibit 886 was admitted into evidence.)

BY MR. COOLEY: (Continuing)

Q. Would you read that, Mr. Armstrong?

A. "Doctor title abolished. In protest against the abuses and murders carried out under the title of 'Doctor,' I abandon herewith all my rights and legitimate use of this title, as the name has been disgraced. I was a Ph.D., Sequoia University, and therefore perfectly valid doctor under the laws of the State of California. My beloved grandfather was a doctor" -- He was a veterinarian -- "and was known as such" --

Q. Just a moment. A Doctor of Veterinary Medicine; is that correct?

A. I guess so.

Q. You don't consider that to be an ignoble profession, do you?

A. No, not at all.

THE COURT: Wait a minute. We don't have to argue about that. That's a perfectly nice legal profession.

MR. COOLEY: It's awful hard to get into veterinary medicine.

THE COURT: I know. We can speed it up without having to go into what he thinks about veterinarians.

THE WITNESS: "My beloved grandfather was a doctor and was known as such throughout his life. Through the ages the term 'doctor' has meant a learned man, but in modern times has been stained by it's preemption by medical doctors and psychiatrists, and I do not care to be associated in any way with faceless men or ignorant butchers or muderers" -- Excuse me -- "the title of 'Mr.' implying Master, I also abandon. I wish to be known solely by my name 'Ron' or 'Hubbard', an honorable name in the fields of philosophy and exploration.

"Any and all DSCNs may apply for and receive a new certificate and the title 'Dean of Scientology.' I wish to call attention that any certificate ever issued by me is valid first by my signature and second by the laws of the country in which its corporation is founded. The originator of a subject traditionally has the right to qualify persons in that subject. And this is the chief source of any titles of learning.

"I could, with ease, defend any use of the term 'Doctor' in any nation, but the name has come into question by association. This is the second time I have requested not to be so named. First was in the late fifties in Washington, D.C., but people have continued the practice against my wishes, and I have not lately been active in correcting them. No secretary, press spokesman, or LRH communicator may hereafter refer to me as 'Doctor' or sign my name as such.

"I have been a captain of sailing vessels, captain of corvettes, a sergeant of marines in my extreme youth, a commander, and many other captions. And as a Scientologist knows, one has had other names. L. Ron Hubbard is a proud enough title or humble enough; I wish it to so remain. The wide world calls me plain 'Ron'; that is more than good enough for me, signifying as it does the friendship and confidence of the many. They are my friends. L. Ron Hubbard."

BY MR. COOLEY: (Continuing)

Q. Now, did it come to your attention at any time that a press release was given out by Mr. Hubbard resigning his degree as a Doctor of Philosophy?

A. I have seen that.

(Defendants' Exhibit No. 887 was marked for identification.)

BY MR. COOLEY: (Continuing)

Q. I show you what has been marked as Defendants' Exhibit No. 887 for identification, sir, and I ask you if that is recognized by you as a press statement issued by Mr. Hubbard, published in the London Times on March 8, 1966, in which he resigned his Ph.D.?

A. I have seen this.

MR. COOLEY: I offer it, Your Honor.

MR. WADE: Your Honor, unless we can tie it up that Miss Christofferson had knowledge of this, it's irrelevant.

MR. COOLEY: Your Honor, it was done in 1966. Miss Christofferson didn't get involved with Scientology, if my memory can go back that far in this case, until 1975. Whether it came to her attention or not, there are documents that have gone in here dated 1935 that I doubt came to her attention, either. But they have been offered by Mr. McMurry.

THE COURT: I don't think that's a valid objection, Mr. Wade. Overruled.

(Defendants' Exhibit No. 887 was admitted into evidence.)

BY MR.COOLEY: (Continuing)

Q. Would you read that to the jury, Mr. Armstrong.

A. "The Times, London, Tuesday, March 8, 1966. Public notice. I, L. Ron Hubbard, of Saint Hill Manor, East Grinstead, Sussex, having reviewed the damage being done in our society with nuclear physics and psychiatry by persons calling themselves 'Doctor', do hereby resign in protest my university degree as a Doctor of Philosophy, Ph.D., anticipating an early public outcry against anyone called Doctor. And although not in anyway connected with b treatment or treatment of the sick, and interested only and always in philosophy and the total freedom of the human spirit, I wish for association of any kind with these persons, and do publicly declare and request my friends and the public not to refer to me in any way with this title. Signed, L. Ron Hubbard."

Q. Now, you have testified in connection with the Ph.D. that Mr. Hubbard held from Sequoia University, that Sequoia University was a diploma mill and that somebody -- Cecil B. DeMill's son, Richard, and somebody by the name of VanVost assisted in getting Mr. Hubbard this degree. Correct?

A. Yes.

Q. Now, the degree from Sequoia University was obtained in 1950; was it not?

A. I'm not sure if it was '50 or '51.

Q. It was very close in point of time to the publication of Dianetics: The Modern Science of Mental Health; was it not?

A. Yes, it was.

Q. And in the course of your research on Mr. Hubbard's biography, did you not learn that Dianetics: The Modern Science of Mental Health, was submitted to Sequoia University as the qualifying piece of writing to support that degree, and that on the basis of that writing, Sequoia University gave the degree of Ph.D.?

A. That's my understanding.

Q. So the degree of Ph.D. was not conferred upon Mr. Hubbard simply because he applied for it and they cranked it out of a mill; they gave it to him as an earned degree on the basis of his publication of Dianetics; did they not?

A. It was arranged by the people that I noted.

Q. Yes. But the book, Dianetics, which had recently been published was submitted to Sequoia University and they accepted it as meeting the qualifications of a doctoral thesis; did they not?

A. That's correct.

THE COURT: I gather by hand upraised, you want a recess?

MR. COOLEY: Yes. That's the way we used to do it in kindergarten.

THE COURT: All right. Members of the jury, we will take our afternoon recess at this time. Remember my cautionary instructions.

(Jury was excused. Court recessed at 3:02 p.m., resumed at 3:27 p.m.)

MR. COOLEY: I want to report to the Court that Mr. Peterson has made the appropriate phone call. He has been assured the tapes will be here tomorrow.

THE COURT: How about the other matters?

Let Mr. Peterson report to me.

MR. COOLEY: All right.

MR. PETERSON: I can assure the Court that under the Rodriguez letter or any other type of police authorization, there have been no videos, tapes, tape recordings, or anything of that nature regarding Mr. Flynn, Joyce Armstrong, Mr. McMurry, Mr. Wade, or any other person. The other items of documentation, I have relayed the information. There are two people that have to be contacted and they are looking for that information and I'll report later on that.

THE COURT: All right. And that leaves just the subject of the two tapes that are on their way?

MR. PETERSON: They are on their way. And the big broad general documents, EDs, orders, and all that stuff concerning Mr. Armstrong, I'll check on that tonight. I may return to Los Angeles to do a search, myself, but I think we have produced everything with those five boxes, plus the hundred-and-twenty-thousand odd that were produced earlier in the case, I think we have about covered everything, but I will make a check, myself.

THE COURT: Okay.

Has somebody been going through these boxes over here?

MR. McMURRY: Yes, Your Honor, we have. Those were packets of documents that we marked for identification yesterday over the noon hour. The two that were not claimed to be privileged. We have marked those 254, I believe, through 261, if I'm not mistaken, which we will be addressing somewhat later. Yes, it's 257 through 261. Correct.

THE COURT: All right.

(Following proceedings held in the presence of the jury.)

BY MR. COOLEY: (Continuing)

Q. Did you, while you were still a staff Scientologist, prepare an affidavit for submission in the Burden case?

A. I believe it was prepared for me, but, yes.

Q. Was it signed by you?

A. Yes.

Q. Was it used in the Burden case?

A. I don't know if it was or not.

(Defendants' Exhibit 888 was marked for identification.)

BY MR. COOLEY: (Continuing)

Q. I show you what has been marked as Defendants'

Exhibit 888 and I ask you whether that is an affidavit of yours signed by you in connection with the claims of Tonja Burden? This affidavit being dated April 12, 1980.

A. Yes.

Q. Did you prepare this affidavit?

A. No. It was prepared for me.

Q. Did you furnish the information that was in this affidavit.

A. I was interviewed by a person from a legal bureau of the Guardian's Office.

MR. COOLEY: First of all, I offer it, Your Honor.

MR. WADE: Your Honor, I'm not sure the entire document would be relevant. Some parts of it certainly are and some are not.

MR. COOLEY: I can make the statement of relevance if required, Your Honor.

THE COURT: I don't know whether Mr. Wade is making an objection or not.

MR. WADE: Perhaps we can take a minute and I can find out what parts the defendants seek to use in the affidavit. We may have no objection.

THE COURT: Okay.

Gentlemen.

MR. WADE: In fact, Your Honor, we would

withdraw our objection to the entire thing. No objection.

THE COURT: I am already up, Mr. Wade.

MR. WADE: I'm sorry, Your Honor. I will try to withdraw my objections sooner next time.

THE COURT: It will be received.

(Defendants' Exhibit 888 was admitted into evidence.)

BY MR. COOLEY: (Continuing)

Q. Who interviewed you and then prepared this affidavit?

A. I don't recall the gentleman's name. There would be something in the Guardian's Office files regarding this interview. But he was a GO operative in the legal bureau. Either this one or another one I was involved in, another one during the same period regarding Ann Rosenbloom. There was a GO staff member named Norm Taylor and there was actually two staff members involved in this thing and one gentleman, I don't recall his name.

Q. Were you in charge of the RPF at the time that Burden was there?

A. Really -- yes, within the RPF.

Q. That is, the RPF has its own internal structure, too, doesn't it, just like my other department or branch?

A. That's correct.

Q. And what was your post in the RPF?

A. I was the Bosun Emeritus. It's just a title. I was really the RPF Bosun, but I had been in the RPF for so long that there was another person who I trained up on the post and he was taking it over, and I was trying to get in enough auditing to get out of the RPF. And there was this title given to me of, rather comically, the Bosun Emeritus.

THE COURT: If I make a suggestion. We have so many terms we are using here of letters, that it would be helpful if we could identify it by something besides just RPF or CSW or whatever.

BY MR. COOLEY: (Continuing)

Q. RPF means Rehabilitation Project Force, doesn't it?

A. Yes.

Q. You get into the RPF when you have done something -- it's kind of punishment duty, isn't it?

A. I'm sorry?

Q. It's punishment duty, isn't it?

A. It's punishment, yes.

Q. And it's designed to -- as the word says, Rehabilitation Project Force is to get you in there and get your act straightened away; isn't that right?

A. It's designed to break your will and make you more malleable and controlable.

Q. Well, are the matters in this affidavit true?

A. The matters in the affidavit are, in large part, false, twisted, nitpicking, and they give a completely inaccurate picture of the RPF and Tonja Burden's activities in the RPF.

Q. When you swore under the penalties of perjury that the first fifteen paragraphs of this affidavit were true to the best of your knowledge and were made entirely of your own free will, that was a perjured statement, was it?

A. One does not have any free will in Scientology.

Q. The question is, was this a perjured statement?

A. The whole thing was a lie, yes.

Q. Was this the first time you had lied under oath?

A. I lied from the first day I got into Scientology until I left.

Q. And on how many occasions did that -- did you lie in judicial proceedings?

A. Well, the two that I know about are these two affidavits. There may be more, but I certainly know about Miss Burden's and Miss Rosenbloom's case.

Q. You testified, you recall, on direct examination concerning payments to Mr. Hubbard on account of royalties for books that he had written. Do you remember that testimony, sir?

A. Yes.

Q. And did you, as a biographical researcher for Mr. Hubbard, become familiar with his writings on which he was paid royalties?

A. To some degree, yes.

(Defendants' Exhibit 889 was marked for identification.)

BY MR. COOLEY: (Continuing)

Q. I show you what has been marked as Defendants' Exhibit 889 and I ask you whether that photograph is a fair representation of the publications and writings of L. Ron Hubbard on which he has been -- has collected money or been paid royalties?

A. Do you mean currently?

Q. At any time.

A. I would say he's been paid for them all, yes.

MR. COOLEY: I offer it, Your Honor.

MR. WADE: No objection.

THE COURT: 889 will be received.

(Defendants' Exhibit 889 was admitted into evidence.)

MR. COOLEY: May I approach the witness, Your Honor?

THE COURT: You may.

MR. COOLEY: First of all, may I just display this to the jury?

(Defendants' Exhibit 889, photograph, shown to the jury.)

BY MR.COOLEY: (Continuing)

Q. Incidentally, do you know that these are displayed in the Hubbard Museum down in Los Angeles?

A. I have never been there.

Q. Over on the right-hand side are a bunch of soft-cover magazines, science-fiction magazines, is this the collection that you purchased for some -- what was it? Sixty-five thousand dollars?

A. I cannot tell you that.

Q. Do you recognize any of the books in there?

A. I can't tell you if that's where they came from.

Q. Over here are some more of those kinds of publications, down in here, Famous Western, Ad Astra, and he was a writer in those magazines before he founded Scientology, wasn't he?

A. Not Ad Astra. Ad Astra was is a current publication and they reprinted one of his old stories.

Q. He wrote for Argosy, didn't he?

A. Correct.

Q. And these are the magazines in which stories of his had been published; correct?

A. Yes.

Q. And up here, here are the green books, what are those books?

A. They are called the Organization Executive Course.

Q. And he holds the copyright on those, does he not?

A. I assume so.

Q. And the blue books are what?

A. Called Research and Discovery Series.

Q. And he holds the copyright on those?

A. I assume so.

Q. And the red books are what?

A. The Technical volumes.

Q. Those are the Scientology Tech?

A. Yes.

Q. And he holds the copyright on that?

A. I assume so.

Q. What are these books down here?

A. Those are packs of -- they appear to be policy letters which postdate the green volumes.

Q. What are these blue binders here? Did you ever see those before?

A. Yes. Those are -- they possibly contain within them the tapes and perhaps the transcription of the tapes of what was called the Philadelphia Doctorate Course from philadelphia in December 1952.

Q. Up here is Battlefield Earth, that's a rather recently current novel he has written, isn't it?

A. 1980-81 period.

Q. Were you still in the Church when he wrote that novel?

A. I was in the organization. In fact, I worked on the project.

Q. That sold pretty well, didn't it, that book?

A. That's possibly the representation. I don't know.

Q. You know it's currently being made into a movie?

A. I haven't heard that.

MR. WADE: Objection, Your Honor. Irrelevant, move to strike.

THE COURT: I don't see the relevance of that.

MR. COOLEY: They have gone in quite of sources of income and I am showing writings on which he receives income that has nothing to do with the Church.

THE COURT: Well, all right. The witness answered he is not aware of it in any event.

MR. COOLEY: I understand that, Your Honor.

BY MR. COOLEY: (Continuing)

Q. Is one required to undergo auditing in the RPF, the Rehabilitation Project Force?

A. Yes.

Q. And did you undergo auditing there?

A. Yes.

Q. Did you prepare a success story upon exit from the

RPF?

A. Yes.

Q. And is that success story audited to determine its verasity?

A. Did you say audited to determine verasity?

Q. Yes. In other words, whether you write a success story, are you audited to determine whether or not you genuinely are being sincere in the writing of that success story or whether you are making it up to get out of the RPF?

A. You are put on a meter, if that's what you mean.

Q. Yes, sir.

A. You are put on a meter.

Q. You are put on a meter to determine whether you have any withholds with respect to your handling your case; isn't that right?

A. I think you are -- why exactly you are put on the meter is one part of the control system, but I suppose withholds is a part of it, although that's not a question that you are asked after the writing of a success story.

Q. In light of your experience -- well, let me just show you a document.

(Defendants' Exhibit No. 890 was marked for identification.)

BY MR. COOLEY: (Continuing)

Q. I show, sir, what's been marked Defendants' Exhibit

No. 890, and I ask you whether that was written by you and whether it bears your signature "Gerry" at the bottom.

A. Yes.

Q. Can you tell us when you wrote that?

A. End of November 1977.

Q. Is that about the time you got out of the RPF?

A. Yes.

Q. The first time?

A. Yes.

Q. Are the statements in there true?

A. In answer --

Q. Why don't you take your time and read it. I'm sorry, I didn't mean to question you before you do that.

A. They are not true.

Q. Are any of them true?

A. Yes.

Q. Would you tell me -- I take it there are a lot more -- far fewer true ones than there are false ones; is that right?

A. Correct.

Q. Tell me which ones were true.

A. "It was a long haul, seventeen months to the day."

Q. I'll mark a "T" on that. Anything else? Just that first sentence is the only true part of that paragraph?

A. Some paragraphs down, I said, "I had the rare opportunity also to be the RPF Bosun for about nine months."

Q. That's a true statement.

A. "I acquired a list of a hundred close, close friends. I have been through a lot of battles with these guys, all of whom I love dearly."

Q. And that's a true statement. Anything else?

A. That's about it.

Q. Is everything else in here untrue?

A. Everything else in there reflects a very warped mental condition at did you believe it to be true when you wrote it?

A. I didn't even question it. It was the mental attitude that a person in my situation had at that time. It does not reflect reality. It reflects the degradation I had been put through where I end up thanking my captors for having degraded me.

Q. In here you say, "It was a long haul, seventeen months to the day." That, you say is a true statement.

A. Yes.

Q. Then you say, "But there is not one minute of that time regretted, because I was always of the" -- "I was always, because of the nature of the RPF, progressing towards the goal of full honesty and redemption." That was untrue you say?

A. I was just getting progressively more broken and degraded.

Q. "I had the tremendous good fortune to do the RPF at the precise time LRH put his attention to recompiling and perfecting of X" -- what is that?

A. Expanded Dianetics.

Q. Expanded Dianetics Tech?

A. Expanded Dianetics Tech is a technique in Scientology auditing in which you find people's evil purposes and you audit those evil purposes, having them relate instances in their life in which those evil purposes have manifested themselves or driven them to particular behavior.

Q. Although you wrote you had the tremendous good fortune to be doing it at that time, you say that isn't true?

A. As I say, you know, this man, L. Ron Hubbard, stuck me there for seventeen months and did a lot of things to my mind which no human being should do to another's mind, and I was degraded to the point where I ended up thanking him for that opportunity.

Q. What was it that caused you to go into the RPF, do you remember that?

A. I had what's called a "fire fight". I swore at Mary Sue Hubbard's communicator, Nikki Merwin.

Q. Where did this take place? Clearwater?

A. No, it was in an apartment complex, staging area for the La Quinta property, and it was in Culver City. It was in

June of 1976.

Q. You say, "I was also of common good fortune to have the Flag senior" -- I can't read the next thing on my copy, something -- "Lieutenant David Mayo on the line overseeing RPF Expanded Dianetics Auditing and Tech in general, and of course to audit under him" --

MR. WADE: Your Honor, at this point we are going to object on the grounds of relevancy.

THE COURT: Please remain seated.

(Following proceedings held in chambers.)

MR. WADE: Your Honor, at this time it appears that defense intends to go through, again, various statements made by people during, before, or after Rehabilitation Project Force, other things they wrote in the Church. Now, we went somewhere along this line with respect to affidavits, but those affidavits concerned court cases, Rosenbloom's case and another case.

However, here we are getting back into that area that is completely irrelevant to the case. I mean, whether or not the statements he makes about the RPF are true or false have nothing --

THE COURT: I know. Mr. McMurry, I know you are very upset. You are visibly up set. I can see that. If you want to put it on the record, go ahead.

MR. McMURRY: I really do, Your Honor. We are leading up to the same technique. These people have been put in concentration camp; they have been degraded, humiliated, absolutely brainwashed, and degraded beyond belief. This man is about ready to break down again.

THE COURT: He's going to crack again.

MR. MCMURRY: Exactly, for the purpose --

THE COURT: He is; I will tell you that.

MR. MCMURRY: You don't put these people through this just for the purpose of what? Character? Prior inconsistent statement? Bias? If this man isn't biased -- he has every right in the world to be. He's been in one of the worst concentration camps this world has ever known. We are going through it again as to what is true and not true. This is the most despicable kind of tactic I have ever seen in my life, and I think it's time to put a stop to it. Under any theory of law -- any theory of law known to this country, this is the worst abuse I have ever seen.

THE COURT: How is this relevant?

MR. COOLEY: This has been -- all of the

success stories of all of these witnesses have been permitted in as a counterpoint to what the witnesses have testified to here. Now I understand, he's putting in plenty of statements explaining that the stuff in here isn't true and that he was brainwashed an all of that. But he's making those explanations as he goes along. We have done it -- we did it with the success stories with every one of these witnesses who was in the RPF, and I can't think of one of them who wasn't, except for Walters, who was a public Scientologist. And Franks was in the RPF. Homer Schomer was in the RPF. The admissibility of the success stories written at the time they were coming out of the RPF have been admissible in this Court from the beginning. I have recognized what price I have to pay when they explain that situation.

THE COURT: What purpose does it have to do with this witness?

MR. COOLEY: This witness has testified to the horrible conditions prevailing in the Church, has testified to the way he was treated, he has testified to what he says the RPF is. I'm entitled to say what he said then.

MR.MCMURRY: There was no reference in his direct examination to RPF. None. It's all elicited by defense, and then they go to impeach the witness from their own cross-examination for one intent only. Not credibility. Not character. Not prior inconsistent statement. Not sworn statement. Not bias. It's an attempt to harass, intimidate and break, for other purposes, this witness, just as he did with each one of the prior: Mr. Franks and Mr. Schomer.

MR. WADE: If I can add to that, Your Honor, Mr. McMurry and I talked after seeing what was happening to the other witnesses, these kinds of things brought back, these things which are, to them, terrible things. And we deliberately stayed away from any mention of RPF on direct examination.

MR. COOLEY: You see, Your Honor, one of the problems I have been confronted with is that when I ask a question of a witness, it doesn't call for the elicitation of RPF or anything else, but under the guise of explaining, he does it. Now he's been doing it and doing it, and I am expected, once he does, it's not to be touched again.

THE COURT: But, Mr. Cooley, you keep going into these things.

MR. COOLEY: That's my point.

THE COURT: Like the RPF. Nothing was mentioned about RPF, except that he was in charge of it. Period.

MR. COOLEY: This case is replete with his references to the RPF.

MR. WADE: Not on direct.

MR. COOLEY: That's the point. I am forced to sit there and I can't stop him from volunteering things that I believe are not responsive to the question, under the guise of explaining them. Then when I try to deal with them, after he's done that --

THE COURT: What you are dealing with is a point by point here. He's just got through testifying that it's not true. Now why do we have to go throughout it point by point with him?

MR. COOLEY: I don't have to go into it point by point, Your Honor. Except, some of the things that he is says are untrue, for example, that he had the good fortune to be under Mayo and to have audited with Mayo. I don't believe he considers that untrue.

MR. WADE: Good fortune?

THE COURT: He says it's untrue. Everything which he told you is true. The rest is untrue.

That's what he says.

MR. COOLEY: All right. May I read it to the jury? He doesn't have to deal with it.

MR. WADE: Your Honor, in the first place, that exhibit isn't in evidence, and we object to that exhibit. We object on the grounds it's irrelevant, not only irrelevant, but we object on the grounds that it is harassive of the witness to get into this area and pull him through that.

THE COURT: I'm beginning to think something is drastically wrong and I think -- I'm not trying to try your case, Mr. Cooley, but I think the jury is beginning to think something is drastically wrong hear when not one witness, not two witnesses, but now we are -- with three now, and we are going to have a fourth time, when they are breaking down having to go through these things. Now that's more than coincidental.

MR. COOLEY: The jury will draw what conclusions the jury draws. That's what we are here for. Your Honor may have a different attitude.

THE COURT: It's not my attitude. I'm only passing it on to you as an observation.

MR. COOLEY: Things strike different people different ways. The trial of a case before a jury, you never know. But I'm trying the case according to the best judgment I can bring to it, and if I'm wrong, I'll learn in short order. I hope. I hope I don't take too long to lose if I am going to lose.

MR. RUNSTEIN: This particular line of statements such as, "I had fabulous auditing from my twin, Andrew Cavelle, who cared tremendously I get through totally and become sane. I became an auditor, a goal every Scientologist has had. I audited almost one thousand hours on my twin in the RPF. The education was pricesless." Now, it may well be the jury may believe that's false when he says it's false, but the jury might also believe that's true.

MR. COOLEY: He's out a Class III auditor; he was not an auditor when he went in.

THE COURT: Here's as far as I can possibly go with this now, and once again I'm going to exercise -- you know, we have been talking about the right of cross-examination and so forth. And you have been referring to the right of confrontation, and I have let you do that. When you talk about the right of confrontation, if you read the case law and the Oregon Code, primarily they're talking about criminal cases.

MR. COOLEY: It applies --

THE COURT: I can point out the verse and section in the code, in our code, that talks in that language, exactly. It further states that the trial judge has the discretion to control the time of cross-examination. I have not done that because I realize how important this case is.

Now we're into the scope, the breadth -- but the time. I don't want to do that, because I want to give you -- you know, I want you to have your chance to present your case. But at some point, we have got to say enough. This is going into a point by point; that is too much. If you want to offer it and let it in, if he wants to say it's absolutelly untrue, fine. The jury can draw whatever conclusion they want. But I don't want to read it. I don't want to bring it up any more. That's enough with whatever this thing is called RPF.

MR. COOLEY: It's a success story, RPF completion.

THE COURT: Well, you know. Off the record.

(A discussion was held off the record.)

MR. COOLEY: What is the Court's ruling?

THE COURT: The Court's ruling is as follows: He has been asked what is true. He has marked or has stated what is true. He has said the rest is false. He has given an explanation as to why it is false. I think you can now offer the exhibit without any further reading of it, without further examination regarding each item on it, and the jury can make up their minds whether it's true or false.

MR. COOLEY: I would merely state, but for that ruling, I would have examined on each of the items on this exhibit.

THE COURT: I understand that.

MR. COOLEY: And in view of the Court's ruling, I will not do so.

THE COURT: Okay.

(Following proceedings held in the presence of the jury.)

MR. COOLEY: Your Honor, I offer Defendants' Exhibit No. 890.

THE COURT: 890 will be received.

(Defendants' Exhibit No. 890 was admitted into evidence.)

THE COURT: You may proceed, Mr. Cooley.

BY MR. COOLEY: (Continuing)

Q. After you got out of the RPF, did you do any auditing yourself, as an auditor?

A. Yes.

Q. How much auditing did you do?

MR. WADE: Objection, irrelevant, Your Honor.

THE COURT: I think he can answer that question.

BY MR. COOLEY: (Continuing)

Q. Did you become a Class III auditor?

A. No. I audited everything up through Class IV and I did solo auditing through OT 3.

Q. And where did you perform auditing?

A. In La Quinta and in Los Angeles.

Q. La Quinta was where the flims were being shot?

A. Yes.

Q. About how many Scientologists have you audited?

MR. WADE: Objection. Irrelevant, Your Honor.

THE COURT: I'll sustain that objection.

BY MR. COOLEY: (Continuing)

Q. When did you last do any auditing, sir?

A. I believe, 1981.

Q. When you become an auditor, do you get some kind of certificate of that?

A. Yes, you do.

Q. Who issued you your certificate?

A. I don't know if I ever got any certificate.

Q. Do you remember when you got it?

A. I don't know if -- I mean, I got the RPF auditing certificates, which were not formal, pretty, sealed certificates like one might get out in the -- in an outside organization, a rather nice thing. Often in the Sea Org one did not get those. And solo auditing, same thing. I did the solo auditor's course, and I don't believe I ever got a certificate, but that was pretty standard where I was.

Q. Now, am I correct in understanding your testimony to be that you Eugene Ingram has been convicted of some kind of crimes?

A. No. I never said that.

Q. You deny that you did not, in front of this jury, call him a convicted pimp?

A. No, I did not.

Q. Did you suggest he was guilty of any crimes?

A. I said that he was thrown off the L.A. Police Department and he was indicted on those particular charges.

Q. Is that what you said?

A. That's what I understand. And that is my recollection of what I said.

Q. Did you also say he was acquitted of any charges against him?

A. No.

Q. Do you know that he was?

A. I don't know.

Q. Do you know that he's a licensed private investigator in the city of Los Angeles at this very moment?

A. I have seen the license number, certainly, on that document which was used in the surveillance of me.

Q. Did you not call Eugene Ingram's answering service and say that you were employed by him, and it was essential that you receive all of his calls for that day so you could respond to one of his clients?

A. No, I never said that. I said that I did call him because, as I explained, when the Flynn story hit, and -- that is, the entrapment of Flynn with the Arabs, and I had just got back from London, I called and I talked to whoever it was in the answering service, and I tried to get ahold of him. In the course of that, she gave me whatever she gave me.

Q. What did she give you?

A. I think she gave me where he was. I believe he was on the East Coast at the time. She gave me names of a -- of people who called in to him.

Q. She gave you the list of calls he had received that day?

A. I don't know if it was that day. It was like regular people who called in.

Q. What did you say to her that induced her to give you Engram's calls?

A. I don't know. I must have been awful disarming, but she was willing to give me this information.

Q. You don't remember though what ruse you used to get those?

A. I don't think I used a ruse.

Q. You just called up?

A. At that time, I was very interested in getting in touch with him. In fact, I was interested in interviewing him, because I was writing a book which the working title was: On the Trail of Eugene Ingram. It seems to have come to fruition.

Q. Finish that book?

A. No. It's in progress.

Q. Is that the book you gave Rena?

A. No. By the way, I'd like to ask if you have that material?

Q. What did you say to Eugene Ingram's answering service to get her to give you his calls for the day?

MR. WADE: Objection, Your Honor, asked and answered.

MR. COOLEY: It hasnt been answered yet, Your Honor.

MR. WADE: Yes, it has.

THE COURT: I think he has answered that, if you want to call it an answer.

BY MR. COOLEY: (Continuing)

Q. Am I correct all you did was identify yourself as someone who wanted to interview Mr. Ingram?

A. I can't even tell you exactly what I said. I was surprised and that's about it. I even turned the information over to the Feds, because I knew that they were interested.

Q. And who was calling Mr. Ingram; is that right?

A. Well, I knew that they were involved in the Tamimi thing. I knew that Mike was. I saw the Feds, the FBI, when it first happened, when I first saw it in the newspaper, within a day of that, because I felt there's an operation going on and I wanted to at least file the report with these guys in case something happened. So I did that and -- field it from there.

Q. When you called the answering service, did you identify yourself as Gerald Armstrong?

A. Well, I'm absolutely certain that I did, because he called me back in just probably five minutes after I had hung up. And we had a -- you know, it was a fairly intense conversation after that.

Q. Is that the conversation which you say he threatened to shoot you between the eyes?

A. Yes.

Q. Now, when you called up his answering service, could you tell us what you said to her, and what she said to you?

A. You know, I really --

MR. WADE: Objection, asked and answered for the third time.

THE COURT: That's number three, Mr. Cooley.

MR. COOLEY: I'm just trying to find out what he said to her.

THE COURT: I sustained it twice already and I'll sustain it the third time.

BY MR. COOLEY: (Continuing)

Q. What else did you turn over to the FBI?

A. Well, I think that it probably went to the assistant U.S. Attorney in Boston.

Q. Brackett Deniston?

A. I believe so. That was the information. Anyway, whatever it was, whatever the names were, you know, -- I think a couple of them turned out to be Scientology people. One was Norman Starkey and one was a name of David Aden, who's a Scientologist in Boston.

Q. Excuse me. These are people on his call list that day?

A. I don't know if it was that day. She described these people as regular callers. She actually put me through to his wife; she patched me through in some way -- I never spoke to the wife -- but she was very helpful. You know, I don't even quite know why, and I know Mr. Ingram was extremely upset thereafter and I think -- you know, I got along quite well with the girl. I hope she didn't lose her job as a result of it. We kind of shucked and jived at the time and had a conversation.

Q. "Shucked and jived"?

A. Well, you know, sometimes you talk to some people and get along amazingly well, and I did with her. In fact, I think I even kidded her and said, "Do you want a date?" you know, which I do a occasionally with young ladies when I talk to them. Something like that. And you know, I wasn't hitting on her or anything. It was sort of like a -- you know, kind of like a joke. She didn't know me from Adam. In any case, it wasn't, you know, it wasn't a big deal. And I didn't even expect to get what I got. And what I got, in my opinion, was completely innocuous.

Q. That's why you gave it to the FBI?

A. I give them whatever I can. To me, it was innocous; to them, maybe it was something else.

Q. Now, you testified in a probate proceeding, didn't you, sir?

A. I gave an affidavit in the probate proceeding. That's the probate matter brought by Nibs Hubbard, Ron DeWolf, regarding his father, LRH's estate. I gave them an affidavit, and the organization took my deposition. I'm not sure if it was one day or two days. But in any case, I never testified in any hearing. I don't think there was a trial. But that's the amount of my testimony.

Q. Who represented Mr. DeWolf?

A. I think --

MR. WADE: Objection, Your Honor. Irrelevant.

THE COURT: Yes. Sustained.

BY MR. COOLEY: (Continuing)

Q. Wedid you give your affidavit?

A. To an attorney in the Los Angeles, by the name Wilke Cheong.

Q. Was Michael Flynn involved in that case in any way?

MR. WADE: Objection. Irrelevant.

THE COURT: Sustained.

BY MR. COOLEY: (Continuing)

Q. Did you give your affidavit after Flynn asked you to or after Cheong asked you?

MR. WADE: Objection. Irrelevant.

THE COURT: Sustained.

BY MR. COOLEY: (Continuing)

Q. What was the purpose of your affidavit in that case, sir?

A. I would have to see it, but mainly it had to do with undoubtedly Hubbard's control of the organization or misrepresentations which I knew at the time.

Q. Did it have anything to do with your opinion whether L. Ron Hubbard was a alilve or dead?

A. Boy, I don't know. It may have.

Q. Do you remember?

A. It may have, because at that time there was a great deal of speculation regarding it.

Q. You knew the purpose of the proceeding was to have Hubbard declared dead or incompetent and to have his -- have DeWolf take over as administrator of his estate or his aaffairs; isn't that right?

A. Don't know for sure.

Q. You don't know what that was all about?

A. No. Don't know the ins and outs of it. But I do know that, at that time, we had the same situation in the Armstrong case, where Hubbard did not come forward and I knew that he was either in hiding, locked up, or dead. And subsequently, he wrote a letter in my case, and I believe wrote one in DeWolf's.

Q. And satisfied the Courts that he was alive and well and not held prisoner anywhere, is that right?

A. At that time, I believe so.

Q. And before that occurred, was it your intent to assist in the proceeding for the purpose of obtaining an adjudication that he was dead so DeWolf could take over?

A. Well, no one asked me to do that, and I had my deposition taken at the time and I gave them an affidavit at the time. That's about it.

Q. Do you remember expressing doubt as to whether L. Ron be Hubbard actually signed any paper that purported to be from him over the last years, starting in early 1980?

A. Well, I knew of the practice of the organization of signing documents for him. There were people in the organization who could sign his name absolutely perfectly. They could write his handwriting. I think that's the information that is contained in the affidavit. I knew that from back on the ship, because I had obtained notarized -- I had had documents notarized by Portugese notaries for L. Ron Hubbard and they were not signed by him. They were signed by a woman by the name of Joyce Popum.

I had originally -- I brought notaries onboard ship and had an exemplar made of Hubbard's signature, and notarizations in Portugal are done by comparison with the signature in a notary's book. Thereafter, I took documents signed by Joyce Popum to these Portugese notaries on a number of occasions and had them authenticated by the Portugese notaries. So I knew of the practice back in the '70s and it proceeded right up until -- through the '80s. I knew of documents in the organization authored by Laurel Sullivan as if she were L. Ron Hubbard.

I knew that the whole, what's called Standing Order

Number One unit, when people wrote to L. Ron Hubbard, the letters in fact never went to him. They were signed, "Love Ron" on his stationery, apparently in his handwriting by someone else. I used to write those letters myself on request from the SO One unit when I was doing research for the biograhpy. If there was a letter which came in which requested biographical information, as if they were writing to Hubbard, an old girl firend, for example, wrote in, I wrote back a letter as if it was coming from the mind of L. Ron Hubbard.

So I knew of these practices and I knew that -- I think those are outlined in the affidavit.

Q. Did you, in fact, have doubt as to whether things signed, purportedly communicated by L. Ron Hubbard as early as late '79, right on through until you learned in your case and in the probate case, that he was alive, they were in fact not signed by him?

A. As I say, some of them I knew were not. Some of them I got from him and I checked out with, for example Barbara De Celle, who was LRH's personal secretary at the time at the special unit in Gilman Hot Springs. And one of the dispatches which I got from him, which was simply a typed dispatch, and it was simply signed the way he signed things back in those days. Typed L, space space R. I checked with her and she said that that was indeed his -- that she received down a cassette, an audio cassette and had typed it up from that. So I authenticated that one.

But I knew that especially a lot of public issues which were being put out by the organization, public statements by Hubbard, Christmas messages and that sort of thing, those were authored by other people. I knew of legal documents in which the same was the case. It really depended on the type of situation as to the answer that I could make as to who it was from. I knew that on certain subjects it had to be L. Ron Hubbard; on other subjects, it was likely that it wasn't.

Q. Did you have any doubt that your own appointment as his biographical researcher and his approval of that project might not have come from him?

A. Well, that's one of the documents which I, in fact, checked out with Barbara De Celle, to find out if indeed my petition had gone to him and if he had responded. And she told me that, yes, he did. And her initials are on the bottom of this document as the typist.

Q. Do you remember being interviewed on the ABC television show, 20/20?

A. Yes.

Q. And do you recall whether you were asked about your opinion as to whether Mr. Hubbard was living or dead?

A. What did I say. He is either dead or in hiding.

Q. I don't know. I'm asking if you remember?

A. I remember something like that.

Q. Either dead or in hiding? Is that what your testimony is?

A. I would say the same thing now.

Q. I'm asking you about then. Incidentally, when was that show?

A. I think it was recorded in approximately -- either July or August 1982.

Q. And do you recall giving an opinion that he was dead?

A. I don't think I would have said, you know, he's dead. I believe I would have said one or the other, either or.

Q. Dead or in hiding?

A. Something like that.

Q. Do you remember being interviewed by Mr. Robert Lindsey of the New York Times?

A. Yes.

Q. In or about January 1983?

A. Something like that. There was a couple of times I was interviewed by him.

Q. Do you remember this quote being attributable to you: "I think L. Ron Hubbard is either dead or he's being kept locked up by this group of people who have taken over." Do you remember giving that quote to Mr. Lindsey?

A. Something similar to that. I -- you know, I explained it. I had a great long conversation with him and some of the article that's attributed to me is definitely not mine. I have never said that I carted briefcases or suitcases full of fifty-dollar bills. So he has some --

Q. He used a little poetic license there. You never said that?

A. Right. It sounds like it came from Nibs Hubbard who had said that on other occasions. So in any case, the way I felt about L. Ron Hubbard is that -- and I explained this before -- he is, in fact, being kept locked up. All these people who attack individuals like me keep him locked up. It's by his own choice, of course, because he, after all, installed them into the position to do what they do. But when they attack individuals, when they attack people, he's got to hide. So, in fact, he's being kept locked up by the attorneys who represent him, by the PIs, because he can't come out of hiding, because he's responsible for the whole thing. If L. Ron Hubbard wants his freedom, the boys out here are going to knock it off.

Q. You are saying that L. Ron Hubbard is not being physically kept a prisoner, that's not your thesis, is it?

A. No. You know, I don't know if he's alive, if someone else is acting as if they are L. Ron Hubbard.

Q. Well, you have testified that in your case he satisfied the Court that he was alive and well and not being held prisoner and he did the same in the probate case.

A. Well, he did it in the probate case. In my situation, he wrote to the Court and there were various handwriting experts who authenticated the document. It was not an issue there as to whether he was dead or not. It was an issue as to whether or not he was going to appear in the case, which he did not.

Q. And he reported that he preferred to remain in seclusion, he told that to the judge in the probate court who respected his right to do so; isn't that right?

MR. WADE: Objection, Your Honor. Irrelevant and calls for a hearsay answer.

THE COURT: Sustained.

BY MR. COOLEY: (Continuing)

Q. In any event, you told the New York Times that he was either dead or being held prisoner by Miscavage and his crowd; right?

A. I think I have explained my opinion on the whole thing.

Q. Yes. But what I'm saying is you didn't say he was in hiding. That's something you put in here. In the New York Times you said he ws dead or being held prisoner?

A. Again, you have a line from the New York Times which is taken out of probably an hour and a half conversation over a meal and there is one line attributed to me, and one that's attributed to me which is not mine. And I would say, again, that that's the situation. You know, what Lindsey was interested in at that time was that story. That's what was -- that's the way I was approaching it.

Q. Now, the fellow you call Nibs Hubbard is Ronald -- is L. Ron Hubbard, Junior, isn't it?

A. Yes. Ronald E. DeWolf.

Q. He goes by the name now -- has he legally changed his name to Ronald E. DeWolf?

MR. WADE: Objection, Your Honor, irrelevant.

THE COURT: Even I fail to see the relevance.

MR. COOLEY: I'm getting to that now.

BY MR. COOLEY: (Continuing)

Q. You met again when you took your tour up the coast and into -- on the two summers that you were working as researcher on this biography, didn't you?

A. No. The first time I met him was in probably October-November 1981.

Q. Were you researching the biography at that time?

A. Yes. I went with Omar Garrison, and while we were the only two who met with Ron DeWolf at the time.

Q. You knew that L. Ron Hubbard and his son had been estranged for many years, did you not?

MR. WADE: Objection, irrelevant.

THE COURT: I think there was some testimony about interviewing people, family regarding the biographical. So I think there's some relevance.

MR. COOLEY: Yes, sir.

THE WITNESS: I knew a great deal about that situation.

BY MR. COOLEY: (Continuing)

Q. I'm just asking whether you knew there had been an estrangement between father and son for many years standing? Can you answer that yes or no?

A. I know that L. Ron Hubbard Junior continued to write to his father. I don't know if that would be called estrangement. His father perhaps considered that he was estranged. In any case, Nibs, L. Ron Hubbard Junior, continued to write to his father throughout the period that I knew.

Q. Did you have copies of those letters?

A. I certainly had copies of some of them.

Q. In the L. Ron Hubbard files that you obtained, were there copies of the letters written to him by his son?

A. Yes. At least the one that I got. There was a great number.

Q. All right. Now, where did he live? He lived in California -- I'm talking about Nibs.

A. He lived in Carson City, Nevada.

Q. Did you go there to see him?

A. Yes, I did.

Q. With Omar Garrison?

A. Yes.

Q. When did you go see him there?

A. October-November 1981.

Q. October or November of 1981?

A. Yes.

Q. Had you made up your mind to leave Scientology at that point?

A. No.

Q. You didn't do that until December 12?

A. Well, within a few days of December 12. I had, by December 12, moved all my personal stuff out of the organization, so it predated it that.

Q. Well, when was it you made up your mind to leave?

A. Well, as I say, some days prior to that. I can't give you an exact date.

Q. Was it in December?

A. Probably around there.

Q. Was it about the time that Miscavage went down to Clearwater and aborted the Mission Holders' revolution?

MR. WADE: Objection, Your Honor. Irrelevant.

THE COURT: Sustained.

MR. COOLEY: Well, I think, Your Honor, I will make -- I will have a conference on relevancy.

THE COURT: Okay. Excuse us.

(Following proceedings held in chambers.)

MR. COOLEY: This witness, as they say in Scientology, blew on the 12th. The Mission Holders' conference that we have seen discussed here ran until the 10th. You may recall Mr. Franks' testimony on that.

THE COURT: I do.

MR. COOLEY: That was a palace revolution that failed, and Miscavage showed up down there and that was the end of that revolution.

MR. WADE: That's absolutely incorrect. I have seen the tapes and they don't show that at all.

MR. COOLEY: I can assure you that's what happened.

MR. WADE: You can't assure me of that. I saw the tapes.

MR. COOLEY: You may have seen the tapes, sir, but you did not see everything that went on at that Mission Holders' conference.

MR. WADE: No, I know, they have be edited. But we saw the parts that were unedited.

MR. COOLEY: Franks' has testified to his introduction of David Miscavage.

THE COURT: I heard that.

MR. COOLEY: All right. And that the ovation that he got and Miscavage quelled that Mission Holders' revolution, there is no question about it.

MR. WADE: That's not on the tapes.

THE COURT: Okay.

MR. COOLEY: This man blew two days later. This man's agenda was always a power path within Scientology, Your Honor. And I will show, through other evidence when I put in my case, that this witness decided to get out. The first blow to him was when the Guardian's Office was brought down July and August. Because that was his path to power through Mary Sue Hubbard, is what he had in mind. That failed him.

He cast his lot with Mr. Franks. And with the -- and with the Mission Holders' revolution and takeover, and when that failed two days later, he blew. And what he had been doing is, he had been storing up his little documents against that eventuality so that he would have a little arsenal.

He went to see DeWolf. That's the first time I realized that he had gone that late in the game to see DeWolf in October and November.

MR. WADE: Your Honor, we can set here and have testimony for years of a conspiracy the Church of Scientology can come up with their Guardian's Office connections policies. But this is just going way too far. He went to see Mr. DeWolf, that's part of the project. He again went to see Mr. DeWolf. There's no connection between his going to see Mr. DeWolf that we have got out of this witness and anything else. None.

So what we are going to have now is we are going to have questions come I will object to and the objections will probably be sustained and he is going to ask three or four more of these. I hope not. There is no evidence of that in this record at all that this man had anything to do with this Mission Holders' conference at all. If there is any evidence of that, it's beyond the scope of direct examination. I mean, --

THE COURT: I'm going to read through the rule. "Scope of cross-examination. Rule 611. Cross-examination should be limited to the subject matter of the direct examination and matters affecting the credibility of the witness." That means you have to turn to credibility problems, where you turn back.

MR. COOLEY: Can we stay on the first one before we go to credibility, because I think I can make a point there that might be worth while.

THE COURT: All right.

MR. COOLEY: I trust you will agree with me that on his direct examination this witness made every effort to paint a picture of benign concerned on his part that his only agenda was to make sure that the only good things were done and that no bad things were done. Would you think that as part of he cross --

THE COURT: I'm not sure he did that on direct or cross.

MR. COOLEY: He did that on direct, Your Honor. That's really clear.

All he was trying to do was bring out the truth, clean up the fraud, clean up the bad stuff, altruistic intentions. It seems to me that I'm -- I have a right to show that he was on another agenda.

THE COURT: That was on direct? He is so far past his direct examination that I don't recall -- I thought all that came out on cross.

MR. COOLEY: It was direct. It also came out on cross, but it was also on direct.

MR. WADE: One of the questions I didn't ask him was, "Why did you leave?" I didn't ask him that. I didn't even ask that.

MR. COOLEY: I Know that, but you have so much, what they call in Scientology, Theta put in against the Church and you hve got so much Armstrong as the knight on the white charger on direct examination, that it seems to me that the fundamental principle of cross-examination is I be allowed to show he had another agenda, which I'm going to show.

MR. WADE: Your Honor, what we had on direct examination were the documents. The documents he wrote to Laurel Sullivan, the biographies of L. Ron Hubbard, L. Ron Hubbard's transcript.

THE COURT: I know about his testimony about the biography. We are pretty clear on that. That was on direct. We went through that and you went through control.

MR. WADE: That's about it.

THE COURT: Past that, I don't recall them going.

MR. WADE: That's about it.

MR. COOLEY: I can pick out the portions of the --

THE COURT: I wish you would.

MR. COOLEY: I don't have his direct testimony here.

THE COURT: Because there is a lot of things that are going on now that we are getting into a collateral aspect of this case. And I know darned well we are.

MR. COOLEY: I really don't intend to move into a collateral area. So there be no mistake about what I am attempting to do here, I'm attempting to establish that this witness had an agenda quiet different than the agenda that he disclosed to this jury on both direct and cross-examination. And that his agenda was a power agenda, pure and simple. And that its ultimate failure came when the Mission Holders' conference failed in Clearwater on December 10, was the last day.

THE COURT: I don't understand why you can't just ask him that and be done with it.

MR. COOLEY: Your Honor, that isn't the way cross-examination is done. I might as well telegraph everything I am going to do and give him an outline in advance.

MR. WADE: I want to make statement before we get out of context. I can produce the document for the Court tomorrow. The Mission Holders' meeting we are talking about took place in December of 1981, we are all agreed to that.

MR. COOLEY: There was one in November, as well.

MR. WADE: November and December of 1981. The Mission Holders' conference where everybody got thrown out -- I can bring a transcript of that conference because it's been produced by the defendants -- took place in 1982. I think it was October or December of '82. Almost a year later when they through everybody out.

One of the problems we are having here is either Mr. Cooley --

MR. COOLEY: You are talking about the wrong conference --

MR. WADE: -- has the conferences mixed up or what took place and what happened.

MR. COOLEY: When I'm talking --

MR. WADE: With respect to the objection we have at this time, it is, we are getting so out out into right field or left field on collateral issues, and at some point we have to put an end to the cross-examination if it comes to collateral issues. And I have been harping on that now most of the day.

And, Your Honor, you have telegraphed to everyone you are becoming more and more concerned about this. And this is an area that we are just getting way out in the field.

MR. COOLEY: Judge, I didn't do anything with that Mission Holders' conference that he's talking about in 1982. The one in which Bill Franks, do you remember when he was on the stand, and he was questioned: "Do you hold your appointment as Executive Director International from L. Ron Hubbard? And he said no. That's the Mission Holders' conference I'm talking about. Now there was another one before that in November, but the one I'm talking about occurred over a six-day period in December. It terminated on the 10th, and this man blew the Church on the 12th. And there is a connection. And that's the relevancy.

THE COURT: If you would let me finish my analysis so you the both know where I am coming from. I just read the rule as to scope of cross-examination, which turns us back to the section on witnesses and how you attack credibility, i.e. impeachment. You can do it actually seven ways in this state. A defective in capacity to perceive, recall or recount is one. Character for untruthfulness, is two. Prior criminal convictions, is three. Bias or interest, is four. Five is prior inconsistent statements. There are two additional means recognized in Oregon: a witness may be impeached by evidence contradicting his or her testimony.

Are you with me so far?

MR. COOLEY: Yes, sir.

MR. COOLEY: This method is subject to the qualification that you can't do it on a collateral matter. And that's the area that I'm getting a strong feeling we are getting into. And I felt that for most of today, that we have gone along anyway. Now, --

MR. COOLEY: Judge, do you really think it was collateral?

THE COURT: I don't know. If it was said on direct, --

MR. WADE: He didn't say it on direct.

MR. COOLEY: If a man paints himself as a seeker after truth, am I not entitled to paint him as a seeker after power?

THE COURT: Is that not character?

MR. COOLEY: No. Character is what's his reputation for truth and verasity?

THE COURT: That's a separate one.

MR. COOLEY: That's an attack on character. And you hve to attack character with reference to specific traits of character which are relevant in the case.

THE COURT: Or prior acts.

MR. COOLEY: Yes. This is not that kind of a thing. This is taking the posture that he has presented and through the evidence that it is not his true agenda. To me that is fundamental.

THE COURT: Okay. Now, I personally think that that message has come through loud and clear. What your theory is. I don't want to cut off your theory of defense, Mr. Cooley.

MR. COOLEY: I appreciate that, Your Honor.

THE COURT: But we have to have some limitation on how far we are going. I'm perfectly willing to hear, you know, where you intend to go and how far you intend to go with it. I can let this jury go and we can sit in here and we can put it on the record and we can discuss it. But I'm getting concerned.

I'm going to read one more section to you about what the Court's -- or you can take my word for it, that the Court has the discretion to control the length and time of cross-examination. I think you would find that in there if you look. That's where we are. If it's your theory -- I'm not going to bust down your theory, Mr. Cooley, by limiting you, but I don't want every collateral issue in the world brought in here in order to do it. I fail to see that the shareholders' meeting, for example, has a whole lot to do with it.

MR. COOLEY: The Mission Holders' conference.

THE COURT: The Mission Holders' meetings.

MR. COOLEY: Well, it was the breakdown of the program of the Mission Holders which was to overthrow the Watchdog Committee and the CMO, which was then in control. And it was this fellow Miscavage that has been mentioned here about a hundred times, if he's been mentioned once --

THE COURT: Are we going to see Mr. Miscavage?

MR. COOLEY: I haven't made up my mind on that yet, Judge. Sufficient unto the day is the evil thereof. I try play to play it a step at a time. I don't want to borrow tomorrow's problems.

MR. WADE: Why don't we do it this was. Why doesn't he ask him, collateral matter, he goes out and he asks him: "Did your leaving" --

THE COURT: I can't direct him as to how to conduct his cross-examination, but I want to discuss it some more, because I'm feeling real uncomfortable and I want to listen to what your theory is.

Let them go for the evening and we will take this up.

(Following proceedings were held in the presence of the jury.)

THE COURT: Members of the jury, I'm going take up a couple of legal matters with counsel, so you are going to be excused for the evening. We will start tomorrow at 9:30.

I'm going to caution you, because it's been pointed out to my attention that there is going to be a radio broadcast regarding this topic tonight. The only reason I'm mentioning it to you is so you don't inadvertently get involved in listening. It will be on directly after the Blazer game on that network. So don't listen. Watch the Blazer game on television instead of listening to your radios. It's going to be on TV; do it that way so that you can avoid getting entrapped into listening to matters to which I have already warned you you should not be listening to. Okay?

That's the first specific time I have had to tell something I knew about and I'm greatful to the person who furnished me the information. It was one of our media people. It gave me the opportunity to tell you about it.

Don't discuss the case. You all know that and you all know we have been talking about that for six weeks. So leave your notes locked up in the jury room and we will see you at 9:30.

(Jury was excused. Following proceedings were held out of the presence of the jury.)

THE COURT: Now tell me, Mr. Cooley, why the mission holders' meeting has some relevance to this.

Mr. Armstrong, maybe you'd better wait outside.

THE WITNESS: Your Honor, I'd like to just -- if I could ask the Court a question, I'll do that after Mr. Cooley's done. It's not legal advice.

THE COURT: I can't give you any advice, you know that.

THE WITNESS: I know that. So I'll wait outside. But before --

THE COURT: All right, before everybody leaves, you may do that. You might advise counsel what it is so they can talk to you before you start.

THE WITNESS: All right.

(Witness was excused.)

THE COURT: Okay. Go ahead, Mr. Cooley.

MR. COOLEY: Your Honor, I'm sure that you saw from the development of the the examination of Mr. Franks, at least, perhaps from my examination of Mr. Schomer, that I consider dates to be very, very important in an attempt to reconstruct what was going on at a given time. When you look backward in history and attempt to find out what was really happening at that time -- We deal with documents and we deal with testimony and we unfortunately attempt or are relegated to the obligation of reconstructing events on an expost facto basis, looking backwards in time.

Consequently, one of my approaches to cross-examination is to study an adverse witness from a point of view of what that witness did; not only what he did, but precisely when he did it and to cross-reference what information I have from him and from other witnesses to determine what his agenda was. It is not insignificant in my theory of the case and in the presentation I intend to make, that this witness, as they say in Scientology, blew as a Scientologist on the 12th of December 1981, two days after the palace revolution of mission holders under the sponsorship of Mr. Franks failed in Clearwater, Florida.

There are documents that have been placed in evidence here by the plaintiff. There are documents that have been written by this man which have been alluded to by the plaintiff and by him which show what his -- what I call his power push was. This witness has presented himself to this jury as one who had only the best interests of Scientology at heart, as one whose sole agenda was to get the truth known and to have all of these so-called misrepresentations placed behind him to go on to bigger and better things in Scientology.

My defense is that he had an entirely different agenda; that his agenda was one of several aggrandizements of the acquisition of power directed first toward the Guardian's Office, which failed when the Watchdog Committee and the CMO brought down that office, and then failed again when the Watchdog Committee and the CMO was not brought down by the mission holders under the leadership of Mr. Franks. When that failed, at that point, Mr. Armstrong left.

In addition to that, Mr. Armstrong, in my defense and through evidence that I will produce, was feathering his own nest and building up his own little storehouse of power in these biographical documents that he was assembling. And that, sir, I report to you is what the relevance is of my interrogation. I am somewhat disturbed that it is necessary for me to give a blueprint to my opponents, but I --

THE COURT: I think you did that early on, anyway, Mr. Cooley. That comes as no surprise.

MR. COOLEY: I would be most amazed if one of Mr. McMurry's senses were at all shocked by this revelation.

THE COURT: I either heard you or Mr. Runstein say it. Whoever made opening statements said it.

MR. COOLEY: Yes, sir. That, Your Honor, is the relevance. I would respectfully ask the Court that I not be required to itemize a list of the documents that are already in evidence, upon which I intended to some further cross-examination to establish this power play. But that's the relevance and I think that -- I say to the Court that I am not off on a frolic; that is, dealing with evidence that is wholly collateral. It is my obligation and I respectfully submit, my right -- most of all my obligation to my client to have this jury get the proper picture of what this man's agenda was, and to have this jury get the full flavor of this man and not the flavor that he has attempted to convey of righteousness and decency, when I know that he is a person who appears here attacking the Church for the sole reason that he was a loser in a power push.

THE COURT: If I hear you and understand you correctly, you are under the subcategory of not bias, necessarily, but interest.

MR. COOLEY: Indeed. Indeed.

THE COURT: If I understand you correctly.

MR. COOLEY: What his interest was at the time and what his interest is now. Very briefly stated, it is my position that this man adopted a rule-or-ruin approach to the Church of Scientology. When he found he couldn't rule it, he set out to ruin it, and I think I'm entitled to show that.

MR. WADE: Your Honor, we have a man who was a researcher for a biography project. We don't have a man who was an ED or mission holder or anything else. I don't want to spend too much time speaking to the facts, but the factual concept is absolutely rediculous. The basic comments about what happens in the world. What happened in December 7, 1941 was, we had the Japanese attack on Pearl Harbor.

What that had to do with what happened in Trenton, New Jersey, when the baby was born is beyond me. If Mr. Cooley wants to make this kind of an argument at the close of the case, that's the opportune time for him to stand up and to make that kind of argument.

Mr. Armstrong has testified, at the time this mission holders' conference was taking place in Clearwater, Florida, he was in California, nowhere near Clearwater, Forida. As I've stated in chambers, if Mr. Cooley wants to ask a question on a collateral matter such as this, he asks the question: did the mission holders' conference have anything to do with your leaving the Church of Scientology? He takes the answer yes or no; it ends there.

The matter is certainly collateral. The testimony what he testified about, what he testified about the representations that were being made, his research, his determining those representations were false and the control lines of the Church of Scientology of California. And if the Court remembers, the control lines he talked about were 1975, 1976. That's what we asked him to do: to put down the lines in 1975 and 1976.

On cross-examination, testimony has been elicited concerning the control since that time. We had Mr. Schomer talk about the control in 1982, and until the present time. We had Mr. Armstrong testify about the control on the blackboard in 1975 and 1976.

With respect to whether or not the evidence is collateral to the issues, Your Honor, anyone can sit and cook up a conspiracy that would go world-wide with connections and then come in and say, "Your Honor, it's not collateral because we can connect this up to this and get three or four hundred things."

THE COURT: We can apply a test of whether or not it's collateral. There is one given to us in the code. I'll give you the page and number if you want. It's rule 607. You'll find it at 230 of Kirkpatrick's text. It's right there. The test is there. It meets the standard or it doesn't. So we can deal with that.

What he is raising now is interest. So we have to go back to 609-1 to look at because the requirements are the same as those for bias. A foundation must be laid. If he denies the interest, then you can offer proof. That's the area he has now claimed Mr. Cooley has.

I don't want to speak for you, Mr. Cooley, but if I'm understanding you correctly, you are talking about a self interest.

MR. COOLEY: Yes, sir, I am. A self-interest then and a self-interest now.

THE COURT: Well, that falls under 609-1. So I suggest to counsel, all of you, that you read that very carefully, because it does require foundation. And I don't say that you have to read it this minute. I say if you want to read it tonight, that's fine.

MR. COOLEY: I would like to read it tonight, Your Honor.

THE COURT: You might want to read the commentary and the text.

MR. McMURRY: I have spent most of the day reading it, Your Honor.

THE COURT: Pardon me?

MKR. McMURRY: I spent most of the day reading it. Page 263 of Kirkpatrick, the final paragraph seems to me to have some merit when it states: "Although Rule 609-1 authorizes proof of bias or interest, only by evidence that the witness engaged in conduct or made statements showing bias or interest, the Court's are likely to give the rule a broader construction. For example, Courts will undoubtedly allow proof that the witness is a party's brother. Even though such a status involves neither conduct nor statments of the witness."

But then we run smack dab into the 611, protection of the witness. And Kirkpatrick goes on to state at the top of page 264, "Rule 609-11 sets forth much more stringent foundation requirements for impeachment of a witness for bias or interest than does Rule 613."

So it's conduct or statements, not this general attack, "Well isn't that the time that the mission holders' meeting occurred?" That isn't relational nor is it conduct.

THE COURT: I thought I was trying to set this out; that there has to be strict foundational requirements to what we are doing.

MR. McMURRY: Thank you, Your Honor. And the predicate --

THE COURT: And I think you also have to read in conjunction with that, and I fully recognize this also, gentlemen, "The Court" -- I'm reading directly again -- "retains discretion to find the outer limits of impeachment by bias and/or interest."

Specifically it says to "See rule 611-1, which authorizes the Court to protect witnesses from harassment or undue embarrasment." I understand that's my job, and I'll look at that in the context in which it's coming in. I'm only trying here to point out to you gentlemen the applicable rules that we're going to go by.

MR. COOLEY: Your Honor also pointed out in the lobby there are salutary rights.

THE COURT: We were never in the lobby.

MR. COOLEY: I'm sorry, in chambers.

THE COURT: Yes, we were in chambers.

MR. COOLEY: You pointed out the rule; there were seven bases you --

THE COURT: I read those to you. I'll refer you to 607.

MR. COOLEY: It's the rule of evidence contrary to what he has testified to.

THE COURT: Yes. That deals with the collateral matter rule.

MR. COOLEY: Yes, sir. And I was attempting to show that this is not collateral within that rule.

THE COURT: Read that section carefully. I thought I said that initially we have a test that we can use as to what is or what is not collateral.

MR. COOLEY: Thank you, sir.

THE COURT: I think, gentlemen, be prepared in the morning to tell me that you fully read those sections and have digested them. I know what they say; I want you to know what they say. All right we are in recess. Oh, one other thing. Mr. Armstrong --

MR. COOLEY: I would like to be present when Mr. Armstrong makes his inquiry of the Court.

THE COURT: Of course, you may. I have another matter. This doesn't have to be on the record.

(Discussion was held off the record.)

THE COURT: All right. Let's hear what Mr. Armstrong has to say.

Mr. Armstrong, you seem to have a question. If I can answer it, I will endeavor to do so.

MR. ARMSTRONG: Thank you, Your Honor. Mr. Cooley made a couple of references today to material which I provided to this woman, who was called Rena, who represented herself as a publisher and to whom I gave some of my writings and art work for that purpose. They were not given to the so-called Loyalists, they were given to her for that purpose. And if Mr. Cooley has copies of those things, first of all it's improper, but I would like to get copies. I think that they certainly have nothing to do with the Operation Armstrong other than the fact that it was represented to me that she was a publisher who wanted to see my material.

THE COURT: Well, I can tell you how to get them. I question my authority as to -- No, I can't tell you how to get them. I mean, I know how you can get them, but I can't tell you how you can get them because I would be in the area of giving legal advice and that's something I can't do.

MR. ARMSTRONG: Can Mr. Cooley tell me, Your Honor, if he has them?

THE COURT: I don't know if Mr. Cooley will respond. He is under no requirement to respond to the question.

MR. COOLEY: I do not intend to respond, Your Honor.

THE COURT: I'm not trying to play Catch 22 with you, Mr. Armstrong. I assure you I'm not doing that. I am only trying to stick to the canons of judicial ethics which I am bound by and the rules which I live and die by, so --

MR. ARMSTRONG: I understand that, Your Honor. We have requested a number of times. You see, I'm not represented by an attorney here. Mr. McMurry has certainly requested materials.

THE COURT: I have ordered all the matters connected with the Armstrong --

MR. COOLEY: Except his handwritten material.

THE COURT: Except his handwritten material.

MR. McMURRY: Your Honor, if I may, because this is something that has come before you, the exception to your blanket order was the handwritten materials which Mr. Cooley was going to be using for purposes of cross-examination, and he argued that this was his work product and therefore should not be disclosed prior to being used on Mr. Armstrong in cross-examination. Now, we seem to have now ended that part of the cross-examination.

THE COURT: I'm not sure we have.

MR. COOLEY: Neither am I, Your Honor.

MR. McMURRY: Very well, Your Honor.

THE COURT: I'm not trying to be difficult, Mr. Armstrong. I'm certainly not, but there are limits. People think judges have the power to do all sorts of things. Unfortunately we do not. And I have to admit to you that we do not. There are ways, but I think if you need to get that kind of advice, you have to see a lawyer.

MR. ARMSTRONG: I understand, Your Honor. I just think that, you know, enough is enough.

MR. McMURRY: Thank you, Your Honor.

MR. ARMSTRONG: Thank you.

(Court recessed at 5:12 p.m.)